

**TABLE OF CONTENTS**

1.	Attendances and apologies (including leave of absence): .....	2
2.	Response to previous public questions taken on notice:.....	2
3.	Public question time:.....	2
4.	Public statement time:.....	4
5.	Petitions and deputations: .....	8
6.	President’s report: .....	9
7.	Declaration of Councillors and officers interest:.....	9
8.	Receipt of minutes or reports and consideration for recommendations: .....	9
9.	Motions of which notice has been given:.....	10
	OCM112/07/15 Section 31 Reconsideration for Development Application for a Transport Depot Lot 35 and Lot 36 Abernethy Road, Oakford (P05577/04) ..	10
	OCM113/07/15 Development Application for Extractive Industry and Extractive Industry Licence Application – Lot 102 (#491) King Road, Oldbury (P00701/03) .....	21
	OCM114/07/15 Section 31 Reconsideration of conditions of approval – proposed extension to IGA Supermarket – Lot 1, Lot 2 and Lot 50 South Western Highway, Byford (P00621/06) .....	36
	OCM115/07/15 Perth and Peel@3.5million – South Metropolitan Peel Sub-regional Planning Framework – Submission (SJ1369-06) .....	40
	OCM116/07/15 Lot 182 Tuart Road, Oakford - Proposed ‘Outbuilding’ (Shed) (P08883/01) .....	43
	OCM117/07/15 Lot 84 (#45) Old Brickworks Road, Byford – Proposed Carport / Shed (P0182/01).....	46
	OCM118/07/15 Lot 81 (#12) Simmental Place, Oakford – Proposed ‘Ancillary Accommodation’ (P04085/02).....	49
	OCM119/07/15 Final Adoption of Scheme Amendment No 191 – Modifications to appendix 5, ‘Landscape Protection Policy Area’ (SJ1694).....	54
	OCM120/07/15 Byford Parking and Access Working Group – Outcomes and Recommendations (SJ963).....	57
	OCM121/07/15 Confidential - Chief Executive Officer Contract Renewal (H0245)	63
	OCM128/07/15 Briggs Park BMX Relocation (SJ1213) .....	64
10.	Information Reports:.....	65
	OCM122/07/15 Chief Executive Officer Information Report (SJ1508) .....	65
	OCM123/07/15 Confirmation Of Payment Of Creditors (SJ514-06).....	66
	OCM124/07/15 Corporate and Community Information Report (SJ514-05) .....	68
	OCM125/07/15 Planning Information Report (SJ514-04) .....	69
	OCM126/07/15 Engineering Services Information Report (SJ514) .....	70
11.	Urgent Business: .....	71
12.	Councillor questions of which notice has been given: .....	71
13.	Closure: .....	71

Minutes of the Ordinary Council Meeting held in the Council Chambers, 6 Paterson Street, Mundijong on Monday 27 July 2015. The Shire President declared the meeting open at 7.03pm and welcomed Councillors, staff and members of the gallery.

## 1. Attendances and apologies (including leave of absence):

### In Attendance:

**Councillors:** K Ellis ..... Presiding Member  
S Piipponen  
J Kirkpatrick  
S Hawkins  
B Urban  
J Erren  
B Moore  
J Rossiter  
G Wilson

**Officers:** Mr R Gorbunow ..... Chief Executive Officer  
Mr A Hart ..... Director Corporate and Community  
Mr G Allan ..... Director Engineering  
Mr D van der Linde ..... Acting Director Planning  
Ms K Peddie ..... Executive Assistant to the CEO

**Leave of Absence:** Nil

**Apologies:** Nil

**Observers:** Mr L Long – Acting Planning Manager

Members of the Public – 62

Members of the Press – 1

## 2. Response to previous public questions taken on notice:

No questions were taken on notice at Ordinary Council Meeting 13 July 2015

## 3. Public question time:

**Public question and statement time commenced at 7.04pm**

**Mrs L Bond, PO Box 44, Armadale, WA, 6122**

Question 1

Has there been any legal advice given before bringing matter OCM100/06/2015 before Council regarding change of policy for Questions and Statement Time at Council meetings, if yes, what was that advise?

*Response:*

*No, legal advice is not required.*

Question 2

With reference to matter OCM100/06/2015 it states the vision as being governance and leadership and the objective as being listening and learning, explain where the ratepayer has been included in this statement when clearly you are not listening or learning.

*Response:*

*This question is open ended and subject to interpretation, a definitive answer cannot be given.*

Question 3

In reference to OCM100/06/2015 it states 'use appropriate tools and methods to maximise opportunities for the community to access and participate in decisions made by Council', how does any of this apply to the community when you have taken away our democratic right to free speech at Council Meetings?

*Response:*

*We have not taken away your right to free speech.*

**Mrs A Cooper, 185 Boomerang Road, Oldbury, WA, 6121**

Question 1:

Can Council please explain to me how a land owner who is in the process of selling their land can have an application submitted for them by another person?

*Response:*

*The legitimacy of the application is determined by the owner at the date of submission.*

Question 2:

I would also like the reason as to why Council refused the original application on the 23<sup>rd</sup> March 2015?

*Response:*

*The reasons for refusal are contained in the minutes of the Ordinary Council Meeting of the 23rd March 2015 and are available on the Shire's website.*

Question 3:

On page 32 in your conclusion it says you have to reconsiders the merits based on revised plans, what changes have been made to now make this a viable option?

*Response:*

*The report provides in some detail the merits based on revised plans and information received during the Mediation process. The mediation is confidential but officers have provided as much information as possible to stakeholders in the item.*

**Mr J Elliot, PO Box 59, Byford, WA, 6122**

Question 1.

To the nearby and affected neighbours, as mentioned in the report, what will our rural charm be and how will you create a rural atmosphere?

*Response:*

*This question is directed at the neighbours. The Shire is however well aware of the rural character of the area and therefore has required the necessary management plans from the proponent to ensure that it will be reinstated.*

Question 2.

How could a Council or Government instrumentality approved a sandpit 30-40 meters from your door. Is a sandpit in keeping with the design and intent of the area?

*Response:*

*The extraction of sand is necessary for development. Control measures are being put in place to ensure that the adjacent properties are affected as little as possible.*

Question 3.

What examples of pit regeneration can the proponent or Shire provide that will show us a history of land management. Could the proponent provide photos of previous regeneration and at what cost per ha and who will pay for it and will a bond be asked for from the proponent?

*Response:*

*The Shire can request the proponent to provide documentation if needed. Generally the Shire would not ask for a bond as the proponent is responsible for the rehabilitation. Compliance action will commence if conditions are not met.*

**Mr T Holgate, Byford Tavern, 881 South Western Highway, Byford, WA, 6122**

Question 1

Can the Council give an explanation on the recommendation of the Byford Parking and Access Group to Council for the construction of a median strip on Abernethy Road from South Western Highway to George Street, thus blocking all access to the Byford Tavern Drive Thru Bottleshop?

*Response:*

*We are not blocking access into the rear entrance of the bottleshop until such time as all six triggers on the Infrastructure Provision Staging and Triggers Schedule are in place.*

Question 2

Why is turning right off Abernethy Road into our rear carpark any different to turning right off Abernethy Road into our existing front carpark access?

*Response:*

*The right turn movement from Abernethy Road into the rear carpark is dangerous because of the conflict between the right turning traffic and traffic turning right out of the IGA carpark.*

**Mr B Williamson, 95 Pony Place, Oakford, WA, 6121**

Question 1

Is it policy in the Shire of Serpentine Jarrahdale to allow the CEO and senior staff to misuse Council policy, local laws and State and Federal Acts as a weapon in an attempt to beat the ratepayers and residents into submission when some members of Council and the Shire President or CEO doesn't like what they have to say?

*Response:*

*If you have any evidence of the Chief Executive Officer or Senior Staff's misuse of Council Policies, Local Laws, or State or Federal Acts you should report it to the Corruption and Crime Commission, Department of Local Government or Western Australian Police.*

Question 2

Why do the Shire President and Council of the Shire of Serpentine Jarrahdale continue to allow the CEO to not answer the lawful questions of ratepayers properly, instead of giving nonsensical answers to direct questions?

*Response:*

*The Shire President and Councillors are confident that all questions are provided with appropriate answers.*

Question 3

Is it Serpentine Jarrahdale Council policy to allow some Councillors to use out of pocket expense claims as another income stream and who approves those claims?

*Response:*

*The Chief Executive Office is not aware of any Councillors using out of pocket expenses for secondary income, all claims are approved by the Chief Executive Office.*

#### **4. Public statement time:**

**Mrs L Bond, PO Box 44, Armadale, WA, 6122**

Shire of Serpentine Jarrahdale Council has not operated in a capacity of total integrity for many years, however the time has now come for every concerned ratepayer and resident of this Shire to stand up and be counted. No longer can people blame other

people when they themselves are not prepared to bring about the much needed change for the better for our Shire. You are not alone when you want a Shire we can be proud of and together we can bring about the change required and the change many people have been fighting for a very long time. Join the army of carers and stop being afraid of bullies, threats and intimidation. Something that may assist your thoughts is to read the Fitzgerald Report on the York Council, the similarities to Shire of Serpentine Jarrahdale Council are astounding.

This statement was meant to be read at the Ordinary Council Meeting 13 July 2015, the President of the Shire of Serpentine Jarrahdale Council would not permit this to be read out at that Ordinary Council Meeting, however that will not stop me from making it public.

**Mrs A Cooper, 185 Boomerang Road, Oldbury, WA, 6121**

As I have stated in previous correspondence to Council with regards to this application, we as long-time residents are against it. The applicant at the mediation had the audacity to tell me that I would not be affected by the noise. We can hear traffic as far away as Mundijong Road, GMF at the corner of King and Jackson Road who were operating from approximately 5am back in March and the timber mill also on Jackson Road who a few years ago had to reapply to Council for a boundary extension as they had inadvertently gone over their boundary. In response to this application I suggested to Council that they not operate their machinery after 10pm. The constant noise from our immediate neighbour to the east of us, who does not comply with any Council regulations that I am aware of and only put in an application after they had done what they wanted.

I do have legitimate concerns about the hours of operation, our easterly neighbours start well before 7am, with workers arriving from after 6am and trucks leaving site before then, most often in convoys. Who is to say that this applicant will not start before 7am as it is a known fact that truck drivers are either paid by the kilometre or by the load so they arrive early in order to get the extra loads, where does this mean they will be parking, King Road or outside my home on Boomerang, neither is acceptable.

A noise study cannot be done when there is no work being carried out on the property, you cannot get a true reading, and what was used as a guide line in our area. Surely the fact the fauna was not observed apart from birds is not surprising as most of it I would assume is nocturnal.

My home is also suffering from structural damage due to neighbours to my east, with cracks in my walls and ceilings that is the result of their heavy machinery. I don't need any further problems structurally with another development across the road.

Unless this applicant is the owner of all these trucks that will be entering site 6 days a week, I don't see how he will have any control over their driving practices. As I have stated before to Council and at the mediation three of my sons have been extremely close to being killed by drivers who were going to and from the new sand pit at the top of the King Road hill, constant calls to police and the Council were to no avail. I have one son who had to take evasive action to prevent himself from being underneath the trailers of a semi who pulled out in front of him from Gossage Road into King Road. The only reason that he is still here today is that the second truck behind the semi saw my son coming and left room for him to steer into, my son then went to the site itself and made a complaint, nothing was done that I am aware of and no apology was given by the pit owners or the driver.

While at the mediation in May this applicant commented that we would not be impacted by the extraction of sand on this site, he also stated that we did not know that there is a shortage of sand for future developments, where he got his information from I would like

to know, I am not stupid nor am I ignorant but what he failed to also mention is that these developments are being built on swamp land and as far as I can tell that is not my problem or my fault.

Please note that this applicant's home and lifestyle will not be impacted in any way for the next four years as he will not be living on site. We on the other hand will have our lifestyle impacted as this is where we live, I have shift workers and full time uni students, plus a high school student still residing here, we do not need any more disruption to our downtime, sleep, study or socialising. Why should we have to put up with 60 truck movements on a Saturday or any other day of the week.

While in closing I would like to ask the Council to make a decision that does not favour the applicant, three of the closest neighbours to this property have resided here for more than 20 years and we would like our concerns to be taken seriously and dare I say not as a windfall for Council.

Please we just want to retain what we moved here for, even though it is nothing like when we moved here, let's leave what is left alone. My children no longer feel safe walking or riding on our roads due to the increased traffic and bad driving habits of next door it will only get worse if this applicant.

**Mr J Elliot, PO Box 59, Byford, WA, 6122**

We still strongly object to the proposed extractive industry at #491(Lot102) King Road Oldbury. We still strongly object for the same reasons as previously submitted.

**Mr K Morrow, President Byford BMX Club**

The Byford BMX Club would like to thank the Shire for their support so far and we hope that support continues tonight. It has been a roller coaster ride so far with all the work done by the club and the Shire to be able to submit a grant application for Department of Sports and Recreation funding only to be knocked back, but a small light at the end of the tunnel was being told that we could submit in the next round of funding and our chances would be reasonably high.

The next news we received was that the Shire would not be applying for Department of Sports and Recreation funding and the new track build time would not be until 2019 at the earliest. This left us numb that things could change so quickly and with very little reasoning as to why.

Having done so much work towards the new track been built and knowing the number of kids that use the track, a steering committee that is extremely dedicated has been set up to move things forward and make the dream of a new track a reality. The time, work and effort put in over the last few weeks has seen the steering committee bring the build cost down from \$897,843.81 to about \$400,000.00.

We hope that tonight the Councillors can see the merit of the BMX track, the value that it brings to the Shire, the support the community has put into the club and track and lastly the ability to do something positive for the kids.

**Mr B Williamson, 95 Pony Place, Oakford, WA, 6121**

We would like to invite any Councillor or ratepayer to come down to our community information centre in the Byford IGA complex on Saturdays 10am until 4pm, Sundays 11am until 3pm, Tuesdays 11am until 3pm, Thursdays 11am until 3pm. To discuss with us any issues you have had in the Shire and to have your say as to what is important to you and your families into the future. We are not affiliated with the Council or any local MP or Political Party.



### Shire President to read statement of Mr and Mrs J and N Avila

This statement is in relation to item OCM112/07/15

Bio-Organics engaged the Council over many months to methodically address matters of concern through the formal State Administrative Tribunal mediation process. It was communicated to us that matters were satisfactorily addressed to allow for the application to be approved with appropriate conditions. Draft conditions were issued. Which we responded to. The agenda item contains the officer recommendation that Council refuse the application based on 5 reasons. We can briefly respond to those as follows:

- a. Although there is a current Contaminated Sites Investigation on the proposed site, Department of Environment and Regulation have not deemed this to be a reason to refused planning approval. Any activity on the site is still subject to Department of Environment and Regulation licensing, should it be deemed to be a prescribed activity, and any impact on current investigations are considered within that investigation. To provide additional comfort, Department of Environment and Regulation has not required any restricted use of water from the site when dealing with ongoing activities, which include dust control as addressed in the State Administrative Tribunal mediation process. Further, water for dust control is available from upstream bores that are not affected by any alleged contaminated water. This is not a planning concern and will be dealt with by the environmental regulatory authority and conditions.
- b. The use of the Lot 6 King Road, also owned by the same proponent, has been determined to not cause amenity impact. That being,  
Noise impact:
  - i. Of all the community submissions, there was no submission regarding noise concerns for the landowners adjacent the Lot 6 King Road battleaxe. Conversely, there were several objections to the use of trucks on Abernethy Road. Therefore the best, safest and least impact traffic route is to avoid Abernethy Road and use the existing private sealed road on Lot 6.
  - ii. Council officers required the State Administrative Tribunal mediation process to include a comprehensive acoustic model to ensure that the proposed activity and vehicle traffic on Lot 6 King Road battleaxe complies with the Noise Regulations – which it does. The Councils environmental officer has been advised by an independent acoustic expert that he has misapplied the Noise Regulations. The application complies with the noise regulations. This is not grounds to refuse the application. Additionally, any approval is subject to ongoing noise compliance.  
Visual impact:
    - iii. A 2m high landscaped earthen bund is consistent with rural living. No mass vertical walls have been proposed in this application. When landscaped with vegetation, a 2m high soil mound fits the landscape. There has also been no objection to this by any stake holder.
    - iv. The Shire has recently approved a similar but *substantially larger* Development Application earlier in 2015 on King Road on similarly rural zoned land. That land use includes the haulage and storage of green waste and operation as a transport depot. A very large and very high earthen noise bund was approved by Council. Clearly Council have defined this as appropriate within the rural environment.
- c. Objectives of the Rural Strategy are met by this development as evidenced by the numerous similar operations permitted in this area, on similarly zone, yet on smaller parcels of land. The Council need to be consistent in the application of the rural strategy to applications.

Should the application be approved, it would not prevent urban development because the separation distances (buffers) are almost completely contained to the proponent's property.

A transport depot is an approval use under the scheme, because it consistent with the objectives of the rural strategy.

- d. The Peel-Harvey Catchment Planning Policy is already met insofar as stormwater is controlled at the site and not permitted to enter into the Water Corporation catchment drains. This concern is already complied with and can be approved with conditions.
- e. Lots 35 and 36 Abernethy Road have access to the restricted road network via Lot 6 King Road, also owned by the same proponent. With permission granted for the activity, there is no longer a case that the development has restricted access. The proponent will accept a condition requiring a formal use right agreement being executed with respect to this access. The overarching matters with which the Council should consider are:
  - i. The proposed development is surrounded by various forms of industrial uses – many of which are transport depots. The main difference is that the applicant's property is substantially larger and therefore the Environmental Protection Act recommended guideline for 200m separation is almost wholly contained within the site.
  - ii. The Council's planning department has advised that transport depots surrounding the applicants site are deemed to be 'transport depot' (an industrial use) and do not have planning approval. If this application is refused based on the reasons presented (particularly regarding suitability within planning strategies), then the Council is obliged to shut down or prosecute numerous other residents for conducting an unlawful land use which cannot be approved.
  - iii. Not only are land uses unapproved, the Council has recently granted a new Development Application on King Road for a substantial green waste facility with large volumes of heavy vehicle traffic. That application is also in the same rural zone and includes very large earthen noise barriers. This was approved with very few conditions and without 12 months mediation at State Administrative Tribunal.

Notwithstanding these comments above, the applicants believe that these concerns can be addressed with further discussion and negotiation between Council officers and the proponent. To this end, the applicant's representative called the Council planning staff today to seek to have this matter withdrawn from tonight's agenda, to be adjourned to the August meeting and to formally obtain consent order from State Administrative Tribunal in this regard. Council staff advised the applicant that only the CEO could withdraw this application at this stage and his permission was sought. The applicant was then informed that the CEO refused to withdraw the application and gave no reason.

The issue for Council is that the applicant has offered to work with senior officers to resolve these outstanding matters, which we believe can be overcome. The recommended refusal tonight, if supported, would put the applicant and Council into a State Administrative Tribunal hearing at significant expense to Council and the applicant that clearly could be avoided.

The applicant petitions the Council to bring a motion to postpone the consideration of this item until the August meeting and direct senior staff to continue with the mediation process in the meantime.

**Public question and statement time conclude at 7.31pm**

## **5. Petitions and deputations:**

### **5.1 Mr Steven Allerding from Allerding and Associated presented a deputation regarding item OCM120/07/15 Byford Parking and Access Working Group Outcome and Recommendations.**

The Working Group has recommended a series of strategic changes to parking and access arrangements as they apply to the Shire's town centre and environs. Some of these changes have significant traffic, planning and commercial impacts on a number of operators within the town centre. This includes impacts on the IGA Supermarket and



the tavern. Of greatest concern is that these significant strategic proposals, and the extent of detail that is now proposed in the working groups recommendations, have not had the benefit of consultation, nor does the officer's report recommend consultation be effected other than to simply inform affected landowners of the proposed changes.

With respect to the authors of the report, this is not adequate, reasonable or appropriate consultation and, indeed, whilst ultimately those recommendations may still be the preferred options to be considered by Council, proper and orderly processes demand that these sorts of significant and strategic proposals must be subject to the benefit of full public scrutiny and comment in order that Council can come to a correct and preferable decision.

Whilst at this juncture we are not seeking any changes to the proposals in the report, what we do seek is the ability to review these proposals in more detail and provide comment as necessary for Council's further consideration (for example the treatment of the George street intersection and widening of Abernethy Road and South West Highway Appear different from anything previously consulted). Accordingly we seek that Council agree to one of the following actions:

1. To simply defer the item to a later time to allow the opportunity for consultation with the broader community (beyond simply the view expressed by a working group) to establish the capability and appropriateness of implementing the proposed recommendations: or,
2. If Council wishes to proceed with adopting the recommendations, we would seek that the item should only be adopted for the express purpose of seeking consultation with those affected landowners prior to the adoption of any recommendations contained therein.

Consultation forms a fundamental basis for strategic and operational planning matters and, consequently, it seems both reasonable, appropriate and, indeed, necessary that this matter be put to consultation prior to Council's adoption in light of changes to that previously consulted on by Council.

## **6. President's report:**

Coles are building in Byford and will open for December 2016 and so will be Farmer Jacks with Hungry Jacks opening soon. There will be jobs for our young people and will be more to come. Serpentine Jarrahdale is on the move.

On behalf of myself, the Shire Councillors and staff, we would like to extend our deepest sympathy to the family and friends of Mr Don Randall.

## **7. Declaration of Councillors and officers interest:**

Nil

## **8. Receipt of minutes or reports and consideration for recommendations:**

### **8.1 Ordinary Council Meeting – 13 July 2015**

#### **COUNCIL DECISION**

**Moved Cr Hawkins, seconded Cr Erren**

**That the minutes of the Ordinary Council Meeting held on 13 July 2015 be confirmed (E15/3321).**

**CARRIED 9/0**

## 9. Motions of which notice has been given:

<b>OCM112/07/15</b>	<b>Section 31 Reconsideration for Development Application for a Transport Depot Lot 35 and Lot 36 Abernethy Road, Oakford (P05577/04)</b>
Author:	Leonard Long – Acting Manager Planning
Senior Officer/s:	Deon van der Linde – Acting Director Planning
Date of Report:	6 July 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act 1995</i>

Proponent: Bio Organics Pty Ltd  
 Owner: Joseph Avila  
 Date of Receipt: 18 July 2014  
 Lot Area: 62,8623m<sup>2</sup> (62.8ha)  
 Town Planning Scheme No 2 Zoning: 'Rural'  
 Metropolitan Region Scheme Zoning: 'Rural'

### Introduction

The purpose of the report is for Council to consider the development application for a 'Transport Depot' including temporary storage of 'landscaping goods' on Lot 35 and Lot 36 Abernethy Road, Oakford.

The development proposal is currently before the State Administrative Tribunal (SAT) for non-determination of the application within ninety days under Town Planning Scheme No 2 (TPS 2).

Following a number of SAT mediations and pursuant to Section 31 of the *State Administrative Tribunal Act 2004*, Council has been invited to reconsider its (Deemed refusal) decision by 27 July 2015.



Aerial View

**Background:**Existing Development:

The subject land had approval for the green waste composting facility granted on appeal by the Minister for Planning and Infrastructure on 2 May 2001. The license for the compost facility was revoked on 27 June 2014 and the decision is currently subject to a separate appeal.

Proposed Development:

A 'Transport Depot' for transfer of goods which are bulk imported and bulk exported from the site involving the following:

- Storage and use of commercial vehicles and heavy machinery, including fuelling and maintenance. Vehicles (more than thirty) includes trucks, trailers, farm tractors bulldozers, loaders, bob cats etc.;
- Tanker to tanker direct transfer of liquid waste and product;
- Truck to truck transfer of soils, mulches, stone aggregate, trees and other garden product;
- Temporary stockpiling of 'landscaping goods';
- Vehicles are to be stored on the existing hardstand at the southwest corner of Lot 36 and hardstand hardstand/workshop area on the southeast corner of Lot 35 when refuelling or servicing.
- Landscaping and agricultural products shall be sourced from a variety of approved and acceptable suppliers and manufacturers from across Western Australia.
- The proposed end use of landscaping and agricultural products shall be for landscaping and agricultural uses. Anticipated clients include landscape contractors, garden centres and farmers. The end use may vary from home gardens, to public sporting grounds, to vegetable farms, and so on.

The type of goods referred in the application has two distinct and separate categories described as follows:

Liquid waste - refers to the goods that constitutes a category 61 (Liquid Waste Facility) as outlined in Schedule 1 of the *Environmental Protection Regulations 1987* and will require a works approval and licence from the Department of Environment Regulation.

Landscaping goods - refers to the soil conditioners, mulches, aggregate, stones gravel, soils used for landscaping and gardening.

Process of transferring liquid waste from one tanker to another

Liquid waste goods shall be transferred between tankers as follows:

For gravity transfer:

- The transfer ramp shall elevate incoming tankers.
- A hose manifold shall connect onto the discharge point of the incoming tanker to provide a piped link to the top of the outgoing tanker (through the access manhole or inlet valve). Pipe/connection manifolds shall be fabricated to suit various vehicles entering the facility. Without a secure connection, liquid waste will not be transferred.
- Valves shall be opened to transfer the waste water via gravity.

For non-gravity transfer:

- Where possible, incoming tankers shall be kept and ground level and stationed next to outgoing tankers.
- Incoming tankers shall be connected to outgoing tankers by the use of a pipe/connection from discharge valves.

- Incoming tankers with on-board transfer pumps will self-decant into the outgoing tanker.
- Incoming tankers without on-board transfer pumps will be decanted with a transfer pump stationed at the facility and operated by the site manager.

The process of liquid waste transfer is relatively common and permitted within Department of Environment Regulation Controlled Waste Tracking System and Controlled Waste Licencing. Licence(s) required by Department of Environment and Regulation will be sought by the applicant.

#### **Relevant Previous Decisions of Council:**

OCM201/06/14 – Council refused an application for a composting facility on the subject land.

#### **Community / Stakeholder Consultation:**

The application has been referred as follows:

Government Agencies / Departments:

- Department of Environment and Regulation
- Water Corporation
- Department of Water

#### **Comment:**

##### Department of Environment and Regulation

The proposed operations constitute a prescribed activity under category 61 (liquid waste facility) as outlined in Schedule 1 of the *Environmental Protection Regulations 1987*.

The proposed works will require a works approval and licence as outlined in the provisions of section 53 and 56 of the *Environmental Protection Act 1986*.

Department of Environment and Regulation recommended management plans for environmental factors of noise, odour, dust, spills, hydrocarbons (fuels and dangerous goods).

The proposal may also require certain licences and approvals to be issued by Department of Environment and Regulation under the provisions of the *Environmental Protection (Controlled Waste) Regulations 2004*. Mixing or bulking of certain controlled wastes are not permitted and may have an effect on this proposal.

Department of Environment and Regulation is concerned that proposed activities could impact on the integrity of the investigations required under the closure notice issued for the premises, or under the *Contaminated Sites Act 2003* as any spills could impact on the groundwater quality.

##### Department of Water:

As the proposal is located within the Peel-Harvey catchment and the provisions of the Environmental Protection (Peel Inlet - Harvey Estuary) Policy 1992 (EPA 1992) and the Statement of Planning Policy No 2.1 (SPP 2.1) - the Peel-Harvey Coastal Plain Catchment (WAPC 2003) shall apply.

As the subject area is located within the Serpentine Groundwater Area as proclaimed under the *Rights in Water and Irrigation Act 1914*, any groundwater abstraction in this proclaimed area for purposes other than domestic and/or stock watering taken from the superficial aquifer, is subject to licensing by the Department of Water (DoW).

Best management practices outlined in the following Water Quality Protection Notes (WQPN) are adhered to:

- WQPN 28: Mechanical servicing and workshops (DoW 2006)
- WQPN 61: Tanks for ground level chemical storage (DoW, 2008)



- WQPN 68: Mechanical equipment wash down (DoW, 2013)
- WQPN 90: Organic material - storage and recycling (DoW, 2011)

### Water Corporation

- The Water Corporation's Birrega Sub-drain G occurs on the eastern side of Lot 36, which flows to the Birrega Main Drain.
- Outflows to the Sub-drain to be kept to predevelopment levels. This is a rural Drain and the land may flood for up to 72 hours.
- Noxious liquids and materials to be managed so that they do not enter the Sub-drain.

### Community and Stakeholders:

- Neighbouring properties within a 1000 metres.

As a result of the community consultation the followed matters were raised:

### Odour

Odour can result in adverse environmental air quality and impact significantly on the locality if not adequately managed. During the consultation period, significant concerns were raised regarding the potential pollution of the air as a result of the transfer of liquid waste from one tanker to another. The liquid waste would be contained within tanks which need to be vented during the transfer of the liquid waste. Another source of odour was also identified from the stockpiles which included a wide range of products potentially fermenting and rotting, stockpiled trees branches and mulches resulting in odour.

### Applicant response

- *The proposed activities in transferring liquid waste between tankers are a substantially less risk of causing odour than composting.*
- *An odour model has demonstrated that odour impact is substantially well within the boundary of the property, therefore no adverse impact should be expected by any neighbouring property.*

### Shire Officer's comment

The applicant submitted an odour assessment prepared by Atmospheric Solutions together with odour dispersion modelling. The report allocated conservative odour emission rates for the stockpiles of landscaping supplies and liquid waste transfer. The odour assessment utilised odour criteria named the two-part 'green light' screening criteria. The results of the modelling suggest that odour contours are well within the odour criteria at the nearby residences despite overly conservative assumptions.

To ensure a thorough and rigorous assessment of the applicant's odour assessment, the Shire commissioned SLR Global Environmental Solutions to undertake an independent peer review. The peer review identified a number of observations and ranked these observations from low to high priority of significance. The review identified potential issues in regards to odour emission rates, lack of emissions inventory and other assumptions in the initial assessment.

As a result of the peer review identifying a number of shortcomings in the applicant's odour study, Shire officer's remain concerned about the ability to manage the potential odour that could emanate from the proposed use.

### Potential Groundwater Contamination

Concerns were raised regarding potential contamination of ground and surface water resulting from potential spills of waste during the transfer of liquid waste from one tanker to another and from nutrients escaping from the landscaping goods stockpiles. There were



also concerns regarding the integrity and the permeability of the existing hardstand and its suitability to provide a sufficient barrier if a large spill were to occur.

#### Applicant response

- *Soil and mulch stockpiles do not readily leach. Therefore in a stockpile state, even with heavy rainfall, nutrients (or any other contaminant) is not at risk of being carried off the site. In any event, the hardstand and drainage catchment provides necessary control and attenuation of storm water should it be carrying nutrients.*
- *Temporary stockpiling of soils, mulches and landscaping products on the existing hardstand will be used in landscaping and agricultural uses - in other words, all of those products will be directly applied to the environment (ground) by end users. Landscaping products are neither hazardous goods, nor dangerous goods, not controlled waste nor contaminated soils.*
- *Although landscape products are applied directly onto the ground, to maintain a clean product and trafficable area, a hardstand is a desirable surface to work on. A suitable hardstand should be flat, have a grade to allow stormwater to runoff into sediment traps, and be strong enough for the proposed vehicle traffic. The existing hardstand achieves those parameters and also has a very low permeability. A geotechnical report regarding the existing hardstand advises of its suitability for composting and related activities.*
- *A spill management plan has been prepared which is of an identical nature to that of most other facilities which received liquid waste in tankers.*

#### Shire Officer's Comment

The applicant submitted a spill management plan detailing management procedures that are to be implemented to ensure that occurrence of spills of any nature (small, medium, large) were to be controlled and appropriately managed.

#### Noise

The application proposed the use of a private road (battle-axe on Lot 6) to access the site. Concerns were raised regarding noise impacts from the site, particularly impacts resulting from vehicles utilising the private access road off King Road. The use of this access road for the composting facility site was prohibited on the previous planning approval mainly due to the adverse noise (among other issues) impacts on the two residences on either side of that access way.

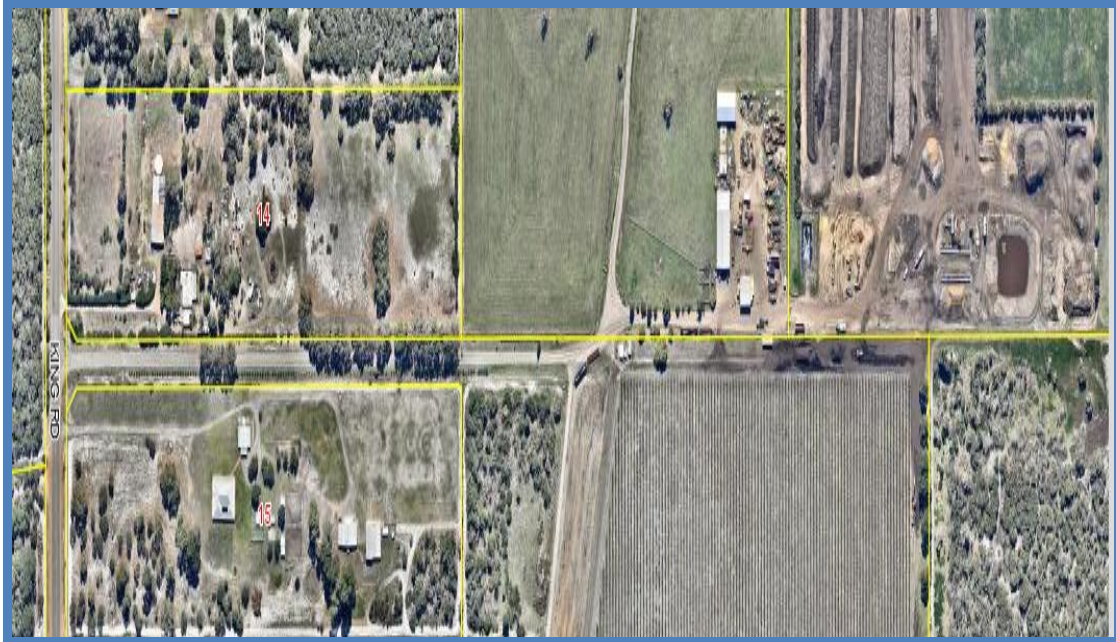
#### Applicant Response

- *The acoustic modelling and report demonstrates that the facility and vehicle noise is compliant with the Noise Regulations, subject to the provisions as detailed.*

#### Shire Officer's comments

In regard to noise and use of the battle-axe access, Shire officer's recommended that the proponent submit an acoustic report justifying that the use of the internal private access way complied with the Noise Regulations and if it does not comply what engineering controls and mitigation measures can be put in place to ensure compliance. The applicant submitted an acoustic report which was prepared by Herring Storer Acoustics.

- The study was modelled on the assumption of 24 traffic movements occurring throughout the day;



Aerial Photo

- The modelling indicated that noise received at the residence on Lot 15 King Road (south of the access road) would comply with the noise regulatory requirements.
- The modelling indicated that noise received at Lot 14 King Road (residence north of the access road) would exceed the regulatory requirements up by 5db (A).
- The report further indicated that additional noise modelling was undertaken with a 2 metre bund located on the northern side of the access road, the noise level received at the residence of Lot 15 King Road would comply with the requirements of the *Environmental Protection (Noise) Regulations 1997*.
- To achieve compliance, the barrier (earth bund or wall) would need to be 2 metres high commencing at the access road and extending for a distance of 70 metres past the eastern side of the residence for a total length of 140 metres.
- The barrier needs to be solid for the entire length.
- To achieve the noise regulations, the number of vehicles needs to be limited to a maximum of six per hour at a speed of 30km/hr.

The Noise Impact Assessment that was submitted by the applicant was referred for peer review. Shire officer's are concerned that a significant proportion of the noise from such large haulage vehicles is produced from the exhaust stacks which are 3 – 3.5m high. This fact is clearly reflected in State Planning Policy 5.4 (SPP 5.4) – 'Road and Rail Noise and Freight Consideration', where guidelines for noise measures refer to engine noise at 1.5m and exhaust noise at 3.5m. While SPP 5.4 isn't directly applied to this situation it is a useful reference for noise sources from heavy vehicles. Particularly as the noise report recommends a 2m high noise wall to attenuate a noise source that the report states exceeds assigned levels.

Shire officer's consider the use of the battle-axe 'driveway' adjacent to residential properties and found it not to be reasonable for the use of road trains and is not supported. Further, it is considered the construction of a two (2) metre acoustic solid wall for a length of 70 metres would result in adverse and intrusive visual impacts to the amenity of the immediate locality in a rural zone. This would be considered to be contrary to the scheme objective which seeks to secure the amenity, health, safety of the inhabitants of the district.

Notwithstanding the above, it must be noted that access for road trains are proposed via Lot 6, as Lot 35 and Lot 36 only have street frontage onto Abernethy Road, a road which does not permit the use of road trains.

### Dust

Concerns were raised regarding the potential air quality pollution that may occur, resulting from dust emanating from the stockpiles of soil conditioners and mulches and other landscape supplies.

#### Applicant Comment

- *A dust assessment and dust management plan demonstrate that dust risk is satisfactorily accounted for and managed; over and above, additional contingency plans have been considered.*
- *A stockpile management plan has been prepared to provide the Shire with specific details regarding truck movements, stockpile areas, volumes, and types of goods, stockpile management, as well as fire risk management and dust risk management.*

#### Shire Officer's Comments

The applicant provided a stockpile management plan identifying the sources of dust and detailing mitigation measures and contingency plans to manage dust impact. The management measures that are proposed to manage dust on site include, managing the height of stockpiles, a water cart with side batter sprays to dust risk stockpiles stabilizing the surfaces, automatic sprinkler reticulation outside normal operating hours among other measure as contained within the dust management plan.

Shire officer's remain concerned with the use of ground water for dust suppression, due to the groundwater potentially being contaminated and the use thereof potentially resulting in further contamination of the site and adjoin sites.

### Future Urban Development

The subject land adjoins a future urban development in the Shire's Rural Strategy of 1994. Council in 2012 resolved to support initiating of a Metropolitan Regional Scheme amendment in relation to the future urban area. In that regard concerns were raised regarding the suitability of the use class in this locality and in the rural zone.

### Applicant Response

- *There is no urban development proposed on or adjacent to the site.*

### Shire Officer's Comments

A transport depot is a discretionary use in the rural zone which can be permitted by Council. The subject site is identified under the Rural Strategy Review 2013 (adopted by Council), as Future Investigation area. Such areas are pending the outcome of the Strategic Assessment of the Perth and Peel Regions and the associated Sub-regional Structure Plans being undertaken at Federal and State Government level. The draft South Metropolitan Peel Sub-regional Planning Framework identifies the subject site to remain 'Rural'.

However, as indicated Lot 35 and Lot 36 do not have access to an approved Restricted Access Vehicle (RAV) network and as such cannot be considered for a use that is reliant on road train access.

### Traffic Movements

Concerns were raised regarding the number of traffic movements and the potential impacts associated with the increased traffic movements. It was also unclear on the internal movement of trucks accessing the site through Abernethy Road as the applicant had provided an estimated number of trucks given the types of goods that will be delivered to the site.

### Applicant Response

*The application can only provide an estimated number and types of trucks accessing the site. It can only assume what the likely demand is going to be for the transport depot. This will vary throughout the year, particularly for landscape goods which are of a lower demand in autumn and winter and a higher demand in spring and summer.*

*To provide some clarity, the following schedule is provided as an estimated maximum traffic flow classified by goods:*

- *3-4 incoming small tanker trucks carrying liquid waste per day;*
- *1 outgoing road train carrying liquid waste per day;*
- *1 incoming road train carrying landscaping goods per day;*
- *1-2 incoming semi-tippers carrying landscaping goods per day;*
- *2-4 outgoing rigid tipper trucks carrying landscaping goods per day;*

### Shire Officer's comments

Should the applicant want to either amalgamate or register an access easement over Lot 6 to obtain access for road trains from a Restricted Access Vehicle network (King Road), Shire officer's consider it reasonable to restrict movements of road trains to two movements per day along the private access.

### Suitability of the use in the rural zone

Concerns were raised whether the proposal was suited to the 'Rural' zone and if such operations should only be allowed in industrial areas.

### Applicant Response

- *The site is zoned rural. A transport depot is approvable on rural land. Moreover, the size of Lot 35 and Lot 36 means that the EPA recommended buffer distances can be achieved within the site. Several adjacent rural properties also operate transport depots which have no such buffer and no approvals. Should planning approval not be granted because of zoning conflict, the Shire would have to force the closure of all other similar land uses.*

### Shire Officer's comments

A 'Transport Depot' is a discretionary use in the 'Rural' zone. The suitability of the proposed use will be dealt with under the heading 'Planning Assessment'.

### Existing Composting facility

The applicant has an application for a composting facility which is currently at SAT. Concerns were raised regarding compatibility of the uses and the potential cumulative amenity impacts if the composting facility were to be approved in future.

Concerns were also raised by the Department of Environment and Regulation that the proposed activities could impact on the integrity of the investigations required under the closure notice issued for the premises.

### Applicant response

- *It is clearly acknowledged that should any prescribed activity occur at the site, the relevant operating license will need to be issued by DER. All necessary approvals will be sought to ensure the land use is compliant with regulatory authorities.*
- *The proposed activity of liquid waste transfer will be subject to DER works approval and operating licence. At that time, matters surrounding current DER investigations will be assessed.*



### Shire Officer's Comments

The cumulative impact of the proposed uses that are currently being appealed with the SAT (Composting Facility) cannot be determined. Notwithstanding, the uses being proposed will all be subject to obtaining works approvals from the Department of Environment and Regulation.

- Landscaping goods will be transferred between large incoming and small outgoing trucks which shall utilise the temporary stockpile area as noted on the site plan. The rate of turnover for goods shall vary according to market demand. However an average period of 2 weeks is anticipated.
- Landscaping goods will temporary be stored on the western side of the hardstand as noted. Adjacent to this area is the location for the transfer ramp as drawn. The balance of the existing hardstand shall be used for safe turning and parking of vehicles associated with the transport depot.

### **Statutory Environment:**

- Metropolitan Regional Scheme  
The site is zoned Rural under the Metropolitan Regional Scheme
- Shire of Serpentine Jarrahdale Town Planning Scheme No 2  
The site is zoned Rural under the Town Planning Scheme
- Shire of Serpentine Jarrahdale Rural Strategy Review 2013  
The subject site is identified within the Future Investigation area under the Rural Strategy Review 2013 as adopted by Council.

### **Financial Implications:**

The matter is currently considered by the SAT. There are legal cost implications for Council associated if the proposal were to be refused. A transport depot is a use that can be considered in a rural zone. If approved with a significant number of conditions, there may be resource issues relating to implementation of conditions.

### **Alignment with our Strategic Community Plan:**

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments and provide facilities that serve the community's needs and encourage social interaction

### **Planning Assessment:**

#### Shire of Serpentine Jarrahdale Town Planning Scheme No 2 (TPS 2)

The subject site is zoned 'Rural' under TPS 2, which allows for a number of different uses to be considered by Council. The intent of the 'Rural' zone as set out in TPS 2 is as follows:

*"5.6 The purpose and intent of the Rural Zone is to allocate land to accommodate the full range of rural pursuits and associated activities conducted in the scheme area."*

It is considered that a 'Transport Depot' is a use consistent with the 'Rural' zone. The general locality comprises 'Rural' zoned properties used for a variety of rural uses including grazing, equestrian activities, market gardens, nursery extractive industries (sand mining), poultry farms, Industry – Rural (timber processing), transport depots and rural lifestyle lots. The subject land directly abuts a poultry farm to the east and a nursery to the north.

However, Shire officer's are of the opinion that since neither Lot 35 or Lot 36 have direct frontage / access to an approved Restricted Access Vehicle network, it limits the type and size of use that may be considered.



### Use Class & Permissibility

The proponent initially asserted that the proposal was a retrospective planning application for a 'Transport Depot', but now asserts that it is not retrospective. On balance the proposal best fits with a transport depot. Under TPS 2 the use class definition of 'Transport Depot' is as follows:

- (a) *The parking or garaging of more than one commercial vehicle used or intended for use for the carriage of goods (including livestock) or persons.*
- (b) *The transfer of goods (including livestock) or passengers from one vehicle to another vehicle.*
- (c) *The maintenance, repair or refuelling of vehicles referred to in (a) or (b) above.*

*The above uses (a) to (c) inclusive, singularly or collectively may, with Council's planning consent, include as an incidental use overnight accommodation of patrons of the facilities.*

Based on the legal advice that was sought, transfer of liquid waste from one tanker to another fits within paragraph (b) of the 'Transport Depot' use class definition. The storage of landscaping goods do not easily fit into the definition given the rate of turnover for landscaping goods will vary with a two week average storage anticipated. On the basis that the activities associated with the landscaping goods are related to the transport component of the proposal, on balance, the use has been considered as a 'transport depot'.

The key consideration is the scale of the associated activities within the 'Rural' zone. A use that is low intensity, small scale and appropriately located such as the parking of commercial vehicles would be considered to be an activity associated with a rural pursuit and keeping with the rural amenity of the area.

### Rural Strategy 1994

The general purpose of the rural policy area under the Shire's Rural Strategy 1994 is to "maintain the current standards and practice of agricultural use and development". In addition, a 'Transport Depot' is identified as a 'conditional use' within the rural policy area.

The subject site is identified under the Rural Strategy Review 2013 as adopted by Council within the Subject to Future Investigation area.

### State Planning Policy 2.1 (SPP 2.1) Peel-Harvey Coastal Plain Catchment

The subject site is located within the Peel-Harvey catchment area and as such the provisions of SPP 2.1 apply. Land uses which are likely to drain towards the Peel-Harvey Estuarine System, should be managed to reduce or eliminate nutrient export from the land.

### Environmental Protection Authority (EPA) -Separation Distances

The EPA Guidance Note 3 (Separation distances between Industrial and Sensitive Land Uses) identifies a guideline separation distance between a 'Transport Depot' and sensitive land uses as 200 meters and that of a liquid waste facility as being on a case by case basis.

### **Options and Implications:**

With regard to the determination of the application for planning approval under TPS 2, Council has the following options:

Option1: Council may resolve to refuse the application.

Should Council refuse the matter it will go to a full State Administrative Tribunal hearing.

Option 2: Council may resolve to approve the application subject to conditions.

Approval of the application may result in incompatible land uses, given the proposed use and access arrangements.

Option 1 is recommended

### Conclusion:

Whilst a 'Transport Depot' is a discretionary use that can be approved within the 'Rural' zone. Shire officer's remain of the opinion that neither Lot 35 or Lot 36 are suitable for the proposed uses due to both only having street frontages to Abernethy Road which is not a permitted Restricted Access Vehicle route.

Further, Shire officer's are concerned about the potential contamination of the site and surrounding sites through the use of groundwater which is currently the subject of potential contamination investigation. As such Shire officer's recommend that the 'Transport Depot' be refused.

### Attachments:

- [OCM112.1/07/15](#) - Locality Plan and Site Plan (E15/3299)
- [OCM112.2/07/15](#) - Odour Management Plan (E15/3214)
- [OCM112.3/07/15](#) – Spill Management Plan (E15/3223)
- [OCM112.4/07/15](#) – Stockpiling Management Plan (E15/3221)
- [OCM112.5/07/15](#) – Acoustic Report (E15/3216)
- [OCM112.6/07/15](#) – Summary of Submissions (E15/3225)
- [OCM112.7/07/15](#) – Peer Review Report (IN15/13940)

Voting Requirements: Simple Majority

### OCM112/07/15 COUNCIL DECISION / Officer Recommendation:

Moved Cr Hawkins, seconded Cr Wilson

That Council:

1. Refuses the application submitted by Bio Organics Pty Ltd on behalf of the landowner(s) Joseph and Naline Avila for a transport depot on Lots 35 and 36 Abernethy Road, Oakford, for the following reasons:
  - a. The proposed activities could impact on the integrity of the investigations required under the closure notice issued for the premises, or under the Contaminated Sites Act 2003.
  - b. The proposal relies on access via the 'Battle-axe' of Lot 6 to King Road, and would result in a negative impact on the amenity of Lot 14 and Lot 15 adjacent to the 'Battle-axe' due to noise.
  - c. The proposed use is not considered to be consistent with the objectives of the Rural Strategy 1994 or the Rural Review 2013.
  - d. The proposed use is not considered to be consistent with State Planning Policy 2.1 Peel-Harvey Coastal Plain Catchment.
  - e. Lot 35 and Lot 36 do not have direct frontage / access to an approved Restricted Access Vehicle network

**CARRIED 9/0**

<b>OCM113/07/15</b>	<b>Development Application for Extractive Industry and Extractive Industry Licence Application – Lot 102 (#491) King Road, Oldbury (P00701/03)</b>
Author:	Allerding & Associates – Planning Consultants
Senior Officer/s:	Deon van der Linde – Acting Director Planning
Date of Report:	25 June 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Proponent:	Roberts Day
Owner:	Jacinta M. O’Callaghan
Date of Receipt:	3 November 2014
Lot Area:	10 ha
Town Planning Scheme No 2 Zoning:	Rural
Metropolitan Region Scheme Zoning:	Rural

### Introduction

The purpose of this report is for Council to reconsider a development application for an extractive industry together with an extractive industry licence application at Lot 102 (#491) King Road, Oldbury. The Ordinary Council Meeting agenda item OCM109/07/15 report was deferred from Ordinary Council Meeting of 13 July 2015 to enable the community to submit their questions to Council.

The original application was refused by Council at the Ordinary Council Meeting of 23 March 2015, OCM029/03/15. Subsequently the landowner appealed the refusal with the State Administrative Tribunal.

As a result of mediation between the applicant, Shire officers and the Shires planning consultants Allerding and Associates, the Shire has been requested pursuant section 31(1) of the *State Administrative Tribunal Act 2004*, to reconsider the application.

### Background:

In response to the discussions at the mediation, the applicant submitted additional information and revised plans. The amended plans depict a relocated site entrance further north along King Road, an increased buffer to the neighbouring property to the east and a third excavation stage to limit the time excavation occurs in proximity to the eastern neighbour.

The additional information submitted provides for additional noise management measures to limit the use of reversing beepers, an updated Traffic Management Plan addressing the relocated site entrance and safety management.

### Existing Land Use:

Existing development on site comprises a shed and water tank located in a cleared area in the northern portion of the property, with the balance of the site is heavily vegetated with low woodlands of *Allocasuarina fraseriana*, *Banksia attenuata* and *Banksia menziesii* in good condition.



Aerial Photograph

#### Proposed Development/Operations:

The applicant is seeking an extractive industry licence and development approval to extract sand located on the subject site. The subject site is situated in the locality of Oldbury and is bound to the west by King Road, to the south by Boomerang Road and to the north and east by rural and rural-residential properties.

The land falls to the north-west and south from a ridge located in the northern portion of the site. To the south the land falls from 26 metres Australian Height Datum (AHD) to 18 metres AHD in the south-west of the site adjacent to King Road. To the north the land falls from 26 metres AHD to 19 metres AHD in the north-west corner of the site.

#### Duration of Licence and Approval:

The applicant has requested approval for a two year excavation period and an additional two years to complete the rehabilitation works and prepare the subject site for its end land use still to be determined.

#### Stages and Timing:

The excavation will be divided into three stages:

- Stage 1 (Year 1) – In the central portion of the subject site;
- Stage 2A (Year 2) – In the northern portion of the subject site; and
- Stage 2B (Year 2) – In the eastern portion of the subject site.

Stage 1 and Stage 2A will be mined over years 1 and 2 respectively, with the final Stage 2B being cleared and mined in a short period of time at the end of the second year to minimise the impact on the adjoining neighbour to the east. To mitigate the impact upon the eastern neighbour, the applicant has also proposed to undertake a Community Consultation Framework to:

*“... include a specific requirement to provide 10 working days notification to the neighbour located east of the proposal. Notification will be by email and by personal contact by phone prior to clearing the site or construction of the noise bund construction to enable these activities to be co-ordinated with the neighbour.”*

### Hours of Operation:

Hours of operation are proposed to be 7:00am to 5:00pm Monday to Saturday (excluding public holidays).

### Infrastructure:

A site compound will be located in the northern portion of the site within the existing cleared area adjacent to the shed within the Stage 2A area. The site compound will include a Site Office, Equipment Store and Vehicle Parking Area.

### Employment Requirements:

During the construction phase there will be between 3 and 5 staff on-site. During the extraction operations there will be between 2 and 3 staff on-site.

### Extraction Methods and Processing:

The applicant has provided the following detail in relation to extraction and processing:

- *Sand will be excavated using a front end loader. No blasting is required.*
- *Processing: Mined material (sand) will be dry screened via a Mobile Screening Plant which will move with mining activities (in some cases sand will be mined and transported directly off site without screening). Vegetation is separated from sand (< 1 mm). All the sand is sold as a sand product.*

### Depth and Extent of Proposed Extraction:

The applicant proposes to excavate a sand resource which is up to 7 metres deep from a 4.6ha extraction area, equating to approximately 200,000 cubic metres of sand over a two year period.

### Vegetation Removal:

Vegetation will be removed with a front end loader, then mulched and taken from the site or used in the creation of small batters throughout the site.

### Vehicular Access and Movement:

Access to the subject site will be via a driveway and sealed crossover from King Road to the west approximately in the location of the existing access track. A vehicle wash-down area is also proposed at the entrance to the quarry site. A total of 60 truck movements per day are anticipated as part of the operation, comprising 30 incoming and 30 outgoing movements.

### Noise:

The applicant has indicated that it will use 'croaker' alarms for reversing alarms instead of conventional reversing beepers. 'Croaker' alarms are directional towards the location of areas where persons are more likely at risk and they provide a significant reduction in noise from conventional reversing alarms.

### Rehabilitation and Vegetative Screening:

The Applicant seeks to establish the following vegetated buffers surrounding the extraction area:

- 40 metre vegetated buffers on the western side of the subject site adjacent to the road;
- Minimum of 80 metre vegetated buffer from the extraction area to the southern side of the subject site adjacent to the road; and
- 20 metre vegetated buffers on the eastern and northern sides of the subject site adjacent to adjoining properties.



- 40 metre extended buffer in the north-eastern corner of the subject site providing for an additional buffer to the dwellings and outbuildings on the neighbouring property to the east.

#### Fencing:

The applicant that all fencing will comply with the Shire's Fences Local Law. Access to the site is limited to the gated vehicle access point.

#### **Relevant Previous Decisions of Council:**

- Development application for extractive industry and extractive industry licence refused.

#### **Community / Stakeholder Consultation:**

Government Agency Referrals:

The original application was referred to 8 government agencies for comment. As a result of the advertising, 7 submissions were received from the following agencies:

- Environmental Protection Authority (EPA)
- Department of Mines and Petroleum (DMP)
- Department of Aboriginal Affairs (DAA)
- Water Corporation
- Department of Health (DoH)
- Department of Parks and Wildlife (DPaW)
- Department of Water (DoW)

The application was also referred to the Environmental Protection Authority (EPA) under Section 38 of the *Environmental Protection Act 1986* (EP Act). The EPA determined not to assess the proposal.

The Shire notes that the DER is currently assessing a clearing permit application.

Community Consultation:

The original application was also referred to a total of 20 surrounding landowners within a 500m radius of the subject site for comment. As a result of the advertising, 4 submissions were received. The predominant concerns of the objectors were mainly with regard to increased truck movements, dust impacts, noise impacts, environmental impacts associated with vegetation removal and appropriateness of buffer distances.

#### Dust Impacts

A number of concerns were raised by resident objectors with regard to the generation of dust from the proposed extraction area having a detrimental impact on the amenity of neighbouring properties and the health of residents.

#### Applicant Response

In their response to the matters discussed at mediation, the applicant has indicated that given the small scale of the proposed quarry, dust impacts are considered to be minor. The applicant has also reiterated that a Dust Management Plan has been developed to ensure there will be no effect on the amenity of surrounding land users.

#### Shire comment

The Dust Management Plan was prepared in accordance with "*A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other related activities*", published by the Department of Environment Conservation (now Department of Environment Regulation) in January 2011. The Dust

Management Plan includes dust management, monitoring and reporting provisions which have been assessed by Shire officers and deemed to be acceptable for approval.

The latest plan provides for an increased buffer area in the north-east corner of the subject site which will assist to reduce amenity impacts on the dwelling and buildings on the neighbouring property to the east. The plan also shows a large buffer to the south as a result of the deletion of the southern portion of the site from the sand extraction zone.

The water required for the suppression of dust and stabilisation can be brought to the site as required via a 120,000kl water cart. This is not dissimilar to the practices that have been adopted in other mining or construction sites and can be effectively implemented to control dust impacts.

The applicant also proposes to install a static wheel wash at the bitumen sealed vehicle exit point to limit dust generation from vehicles. The wheel wash incorporates a tank of water with steel access ramps that wash the tyres as vehicles leave the site. The water is emptied from the wheel wash approximately twice a month and is dispersed by way of a small sump adjacent to the wheel wash.

If the application is to be approved by Council it is recommended that a condition be applied requiring that the dust management, monitoring and reporting measures are implemented in accordance with an approved Dust Management Plan.

Any associated remedial action required and undertaken as an outcome of the dust monitoring and reporting will be addressed within the compliance reporting to be undertaken as part of the annual audit. The annual audit is submitted to the Shire for assessment to ensure the approved Dust Management Plan is complied with.

#### Noise Attenuation

Noise associated with excavation and screening activities on-site has been raised as a concern by a number of resident objectors.

#### Applicant Response

In their response to the matters discussed at mediation, the applicant has noted that:

*A noise study has been completed by Herring Storer Acoustics (2015). This study has found that with the management measures proposed for the site (including noise bunding around the perimeter) the operation will comply with the Environmental Protection (Noise) Regulations 1997, with noise levels below regulated limits at the nearest residences.*

The applicant has also previously identified that noise generated from the proposed operation will be as a result of:

- Operation of earthmoving equipment throughout the construction and operational phases;
- Traffic along the transport routes; and
- Noise generated by screening machinery.

#### Shire comment

In response to the feedback of resident objectors at the site viewing the applicant has also agreed to a condition requiring the use of 'croaker' alarms instead of conventional reversing beepers for all machinery used on-site. 'Croaker alarms are directional towards the location of areas where persons are more likely at risk and they provide a significant reduction in noise from conventional reversing alarms.

Amenity impacts associated with noise emissions will also be addressed in part by the increased buffer areas proposed at the north-eastern corner of the site and the greater separation distance to the southern boundary as a result of the removal of the southern extraction zone. Noise bundling will also assist to further mitigate noise impacts.

Noise impacts associated with increased levels of traffic are considered to be acceptable in the context of King Road which is a designated heavy haulage route. Therefore, the level of noise associated with the variety of vehicles using this road is likely to offset any specific noise impacts associated with vehicle movements in and out of the site.

The acoustic assessment has previously been assessed by officers to be acceptable in demonstrating that the noise levels of the proposed operations will comply with the *Environmental Protection (Noise) Regulations 1997*. If the application is to be approved by Council it is recommended that a condition be applied requiring that the noise management measures be implemented in accordance with the approved acoustic assessment, including the use of croaker alarms for all on-site machinery.

### Environmental Impact

The proposed excavation footprint is stated as 4.6ha. Of this area, it has been calculated that approximately 3.6ha of native vegetation will be cleared. Shire officers have identified this vegetation as having high ecological value, being a *significant local natural area* and forming part of a Regional Ecological Linkage. The proposal will therefore result in impacts on the environmental values of the area, including the viability of the retained vegetation in the buffer areas.

Concerns from resident objectors also raised environmental impacts associated with vegetation removal from the site to allow for the proposed extraction operations.

### Applicant Response

In their response to the matters discussed at mediation, the Applicant provided the following information:

- *No Threatened or Priority Ecological communities are present within the property and no conservation significant or priority plant taxa were recorded (EnviroWorks Consulting, 2014).*
- *Impacts on fauna are relatively minor. No significant fauna were observed during field studies. There was little evidence of fauna presence apart from birds. The low species richness of the native flora and the sparseness of this vegetation limit the habitat values of disturbed areas (EnviroWorks Consulting, 2014).*
- *The site contains banksia woodland which may be suitable as foraging habitat for Black Cockatoo. The Commonwealth have deemed the proposal as not a controlled action in this regard. Within a 4km buffer of the project area there are multiple protected Bush Forever Sites that contain foraging habitat suitable for Carnaby's / Baudin's Black-Cockatoo (site numbers 70, 273, 348 and 353 – Refer to Figure 4). These bush forever areas total 199.4ha within the 4km buffer. Some localised disturbance exists within these Bush Forever Sites and it is estimated that this localised disturbance reduces the foraging habitat available within them by 10%. On this basis, the available foraging habitat within a 4km buffer is approximately 179.5ha.*
- *Regional ecological linkages are an interrupted network of natural areas which allow species to move between patches of remnant vegetation. Regional ecological linkages for the Perth Metropolitan Region were identified and mapped by the Perth Biodiversity Project in 2003.*
- *Figure 7 shows that the vegetation present on Lot 102 King Rd is a component of a north-south regional ecological linkage connecting Modong Nature Reserve to Bushforever Site 68 (Jackson Rd Bushland). As shown in Figure 7, a large area of ecological linkage occurs adjacent to Lot 102 on the Eastern side. This ecological*

*linkage will be enhanced by the retention of 4.86ha in the southern portion of Lot 102 King Road and the 20 and 40 metres of boundary buffer as shown in Figure 6.*

- *This ecological link will assist with movement of black cockatoo between patches of foraging habitat, such as the Bush Forever Sites shown in Figure 4.*

#### Shire comment

The revised site layout plan reduces the overall extraction footprint of the proposal and it is noted that an area of approximately 1.0ha of the overall 4.6ha extraction footprint is already cleared as a combined result of the former use of the site for rural purposes and the clearing requirements for firebreaks. The total cleared area will therefore comprise a 3.6ha of cleared vegetation and 1.0ha of previously cleared land over a total lot area of approximately 10.0ha.

The retention of the vegetated buffers to the north, east and west and the larger southern buffer area will assist to retain some of the environmental values of the area and will assist maintaining the viability of the retained vegetation, particularly in the southern area of the site, when compared with the former proposal which sought to clear a total of 5.9ha of vegetation.

The Applicant has previously confirmed that the Department of Environment Regulation (DER) is currently assessing a clearing permit application but has not yet made its determination on the proposed clearing. It is understood that the DER will not make a determination on the clearing permit application until a decision on the planning application is made available. Should Council resolve to grant planning approval to this application, relevant approvals from the DER are required prior to the clearing of native vegetation from the subject site.

#### Site Security

Security of the extraction site and site compound was an issue raised by resident objectors at the mediation site viewing. Concerns were raised as to the potential for the theft of fuel as well as other antisocial activities occurring within the site if left unsecured after normal operating hours.

#### Applicant Response

In response to these concerns the applicant has indicated that no bulk fuel will be stored on-site and that the site and compound will be monitored with CCTV. The site entrance gate will also be locked after hours. The applicant has indicated that the use of CCTV as a security management control is consistent with their other metropolitan operations.

#### Shire comment

On-site security cannot be controlled by the Shire, as such has no planning merit to be considered further.

#### Design of Perimeter Fencing

Concern was raised by resident objectors that the future presentation of the boundary of site would be at odds with the rural character of the locality due to the establishment of high hurricane fencing to secure the site around the perimeter.

#### Applicant Response

The applicant has indicated that standard rural fencing around the perimeter of the subject site will be established in accordance with the Shire's Fences Local Law and in keeping with the rural land use and character. Access to the site will be limited to the single access point from King Road which will be gated.

#### Shire comment

Any new fencing proposed as part of the operations will be assessed in accordance with the Shire's Fences Local Law.

#### Traffic Safety

A number of concerns raised by resident objectors related to the potential impact of additional truck movements on the safety of King Road and the location of the site entrance adjacent to the entrance of neighbouring properties.

#### Applicant Response

In response to these concerns the applicant has reengaged its traffic consultant (Contraflow) to review the options for site access to determine alternative locations along King Road which will comply with the required standards of sightlines and vehicle types versus volumes. An updated Traffic Management Plan has been provided by the applicant to reflect the new site access location and also to:

- amend the risk identification and assessment table to include risk responses for traffic movements in and out of the site and sand spillage at the entrance to the site;
- clarify the removal of traffic management signage; and
- include detail about the sealing of the crossover and the proposal to incorporate a static wheel wash at the site exit.

#### Shire comment

In considering traffic safety it is noted that the Traffic Management Plan recommends that a 70km per hour speed limit zone be incorporated into King Road for 100m either side of the entrance into the subject site. The 100km per hour speed limit would then be reinstated at the completion of the 2 year extraction operation. In addition, all trucks entering and exiting the site are to activate a flashing beacon. These measures are intended to address traffic safety associated with higher volumes of vehicle movements in this location and any conflict that may arise with the existing traffic on King Road. The revised location of the site entrance has been assessed and determined as being consistent with the relevant Australian Standards.

A provision has also been inserted into the updated Traffic Management Plan requiring that the entrance and crossover to the site be bituminised and a static wheel wash installed to prevent egress of material onto King Road. This is intended to address accidents associated with slippery road conditions as a result of sand spillage.

Further, King Road is a designated heavy haulage route and therefore any impacts arising from additional truck movements are to be considered to be acceptable having regard to this road designation.

Should the application be approved by Council it is recommended that a condition be applied requiring that the traffic management measures be implemented in accordance with the approved updated Traffic Management Plan.

#### Groundwater Impacts

There has been concern raised by resident objectors as to the amount of water required to facilitate the rehabilitation of the subject site to enable the development of a nursery and also to facilitate final end use of the site as a nursery.

#### Applicant Response

No direct response from the Applicant has been received in relation to this issue.



#### Shire comment

The landowner will be required to address any water or environmental issues when planning approval is sought for the end use of the site.

#### Compliance with Operational Conditions

Concerns were raised by resident objectors that the Shire's compliance resources were not capable of managing another sand extraction proposal within the Oldbury locality. Residents raised concerns that there had been other compliance issues with operational sand extraction activities nearby that hadn't been addressed.

#### Applicant Response

No response from the applicant was provided specifically in response to this concern.

#### Shire comment

The site operations will be subject to annual compliance assessments as part of the Annual Compliance Assessment Report required as a condition of approval of any new extractive industry. Compliance matters will otherwise be handled on a case by case basis and addressed accordingly by Shire staff.

#### Duration of Operations

Comments were made by resident objectors concerning the perceived ongoing nature of the extraction operations at this site if the use were to be approved.

#### Applicant Response

The applicant's response to this concern is that the proposal is not a long term quarry operation and the maximum two year operation period of the excavation suggests that any inconvenience will be short term.

#### Shire comment

The two year timeframe is reflective of the limited sand resource available at the subject site. Any approval granted by Council should be conditional on the extraction operations concluding within two years from the commencement date with an additional two year period for site rehabilitation.

### **Statutory Environment**

#### Approval requirements under the Metropolitan Region Scheme (MRS):

Extractive industries in the rural zone under the MRS are the subject of a clause 32 resolution, effectively requiring a determination to be made under both the Shire's TPS 2 and under the MRS by the WAPC. Accordingly, it is a requirement that Council provide a recommendation to the WAPC to assist with the determination of the application.

#### State Planning Policy 2 – Environment and Natural Resources (SPP 2):

SPP 2 identifies basic raw materials such as sand, clay, hard rock, limestone and gravel together with other construction and road building materials as being important natural resource assets and a vital part of the State's economy. SPP 2 indicates that a ready supply of such materials in close proximity to developing areas is required in order to keep downward pressure on the cost of land development and the resultant price of housing. SPP 2 also notes that the quarrying of basic raw materials on private land is to be legally administered by local government. SPP 2 indicates that planning strategies and decision-making should seek to identify and protect important basic raw materials and provide for their extraction to meet the objectives outlined above, in accordance with SPP 2.4.

### State Planning Policy 2.4 – Basic Raw Materials (SPP 2.4):

SPP 2.4 recognises that the provision of a ready supply of basic raw materials in close proximity to developing areas is important in minimising the cost of land development and housing, as noted also in SPP 2 above. SPP 2.4 also indicates that basic raw materials are relatively cheap to produce, with the major costs stemming from transportation to the end user. It is also noted that the availability of basic raw materials close to Perth is declining, with many sand resource sites being located within areas affected by environmental and planning restrictions.

Based on the previous assessment of the proposal under the provisions of SPP 2.4 undertaken by Shire officers and the response provided by the applicant above, it is considered that the proposed extractive industry is consistent with the provisions of this policy.

### Environmental Protection Authority – Guidance Statement No. 3:

As noted previously by Shire officers, the EPA's Guidance for the Assessment of Environmental Factors – Separation Distances between Industrial and Sensitive Land Uses No. 3 (Guidance Statement No. 3) provides for separation distances between industry (such as extractive industries) and sensitive land uses.

The nearest sensitive land use, a dwelling, is located approximately 70m east of the eastern edge of the extraction area in the northern portion of the site. Three other dwellings are located within 100 and 200 metres from the extraction area to the south of the site.

Measures to address the externalities associated with the extractive industry, particularly relating to noise and dust, have been incorporated into specific management plans. The separation distances to the neighbouring dwelling to the east has also been increased under the revised proposal with a buffer distance of 40m now provided to the eastern neighbour (previously 20m). The limited extraction period and the management measures proposed by the Applicant indicate that a smaller separation buffer is considered appropriate in this instance to address any offsite impacts associated with the proposal.

### Town Planning Scheme No. 2:

The subject land is zoned 'Rural' under TPS 2 and is surrounded by rural zoned land. The purpose of the 'Rural' zone is as follows:

*"The purpose and intent of the Rural Zone is to allocate land to accommodate the full range of rural pursuits and associated activities conducted in the Scheme Area."*

The extraction of materials falls within the defined use class 'Industry – Extractive', under TPS 2. The TPS 2 zoning table lists this use class as an "AA" use within the rural zone which means that the use can be permitted at Council's discretion.

### Rural Strategy 2013 Review:

The subject site is within an area identified as 'Subject to Future Investigation' on the Rural Strategy 2013 Review (Strategy Review) map. Clause 3.2 of the Strategy Review deals with exclusion areas which are "areas where future planning is currently underway". This includes the 'Oakford and Oldbury. Future Investigation Area' in which the subject site is situated. Land in these areas is to be investigated between the 2013 review and the subsequent Rural Strategy Review anticipated to be in 2018.

Therefore, the timeline as outlined by the applicant is approximately four years inclusive of a two year extraction phase and a two year rehabilitation phase for the end use. These future investigations for the subject site are likely to correspond with the lifespan of the extractive industry as proposed.

### Jandakot Structure Plan 2007

Visual impact is considered a relevant concern for the proposal, given its relative location and the fact that the ridgeline is identified as prominent landform worthy of retention within the Jandakot Structure Plan 2007.

Potential visual impact will be on road users travelling along King Road and Boomerang Road and to the rural properties directly to the north and east of the subject site. Concerns have been raised by local residents in regards to the impact the proposed use will have on the rural nature of the locality and the landscape feature of the ridgeline.

The applicant has provided the following response to concerns of visual impact and the intent of the Jandakot Structure Plan 2007:

- *The Jandakot Structure Plan (August 2007) identifies a requirement for landscape protection to be addressed as part of development plans or local structure plans. The Rural Strategy Review (Version 3 endorsed by Council August 2014) identifies Lot 102 within an area designated 'subject to future investigation' for consideration in a future Local Planning Strategy.*
- *The buffers of 20 and 40 metres and the large area of vegetation retained on the southern portion of Lot 102 in this proposal differs substantially from the 2001 proposal (Point 5 in the Shire's list of reasons for refusal) which advocated 15 metre buffers. The proposed quarry is relatively small with only 3.6 ha of clearing proposed.*
- *The retention of buffers will ensure the operations are "predominantly screened from roads and lot boundaries" (Council Minutes page 20).*
- *The removal of sand to a relatively shallow average depth of 5 m is not considered significant landform alteration.*
- *The proposed quarry which is small and localised is not considered to have a significant impact on landform or landscape within the Jandakot region. Visual amenity will be maintained through retention of substantial vegetated buffers.*

Shire officers comment:

It is considered that the applicant has adequately addressed concerns raised by neighbour objectors and Council with respect to visual impact to warrant Council's support of this proposal.

### **Financial Implications:**

Should Council resolve to refuse the reconsideration of the application, it is likely that the applicant will proceed with the State Administrative Tribunal appeal.

This will have financial impact on the Shire having to appoint Planning Consultants and legal counsel to represent the Council at the hearing.

### **Alignment with our Strategic Community Plan:**

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments and provide facilities that serve the community's needs and encourage social interaction
Key Action 3.1.2	Provide appropriate amenities and accommodation for the Shire's growing population of youth and seniors.
Objective 5.2	Excellence in Environmental Management
Key Action 5.2.1	Protect, restore and manage our landscapes and biodiversity.

## Planning Assessment

In summary the subject site is located in close proximity to numerous other sand extraction operations. The subject site is well positioned to benefit from King Road which operates as a heavy haulage route connecting the subject site and other operations to Thomas Road to the north and the broader Perth metropolitan road network.

The site has no history of sand extraction but has been identified as containing a sand resource suitable for use within the construction industry. The sand is classified as follows:

*White to pale grey at the surface, yellow at depth, fine to medium-grained, moderately sorted sub-angular to sub-rounded minor heavy minerals, of eolian origin.*

An opportunity therefore exists for Council to permit the extraction of an important sand resource at the subject site on a temporary basis to support urban development particularly in the southern metropolitan region.

Having considered the information provided by the applicant in response to the issues raised by resident objectors at the site viewing and the Council's grounds for refusal, it is recommended that Council approve the development application and extractive industry licence for sand extraction at the subject site. Approval is recommended on the basis that the proposal meets the relevant planning framework and can be undertaken with demonstrated mitigation measures for addressing externalities including noise and dust, as well as providing for acceptable management of traffic and access, environmental impacts, water usage, visual impact and compliance.

## Options and Implications

With regard to the determination of the application for planning consent under TPS 2, Council has two options:

Option 1: Council may resolve to approve the application for sand extraction at the subject site;

Option 2: Council may resolve refuse the request to reconsider the application.

With regard to the determination of the application for an extractive industries licence, Council has two options:

Option 1: To approve the application over the whole or part of the land, and subject to such conditions, if any, as it sees fit; or

Option 2: To refuse the application.

## Conclusion

Council is required to reconsider the application on its merits, based on the revised plans and information submitted by the applicant and having regard to the technical assessment of the proposal by Shire officers and the issues raised by resident objectors during the site viewing.

Sand is an important resource having a number of purposes, including urban development in the south eastern corridor of the Perth Metropolitan Area. Access to local resources is an important consideration for industry. Due consideration, however, needs to be given to matters of local significance including impacts of noise, dust and visual amenity. Conditional approval for the development is supported for the reasons outlined above.

**Attachments:**

- [OCM113.1/07/15](#) – Site Layout Plan (E15/2957)
- [OCM113.2/07/15](#) – Vegetation Buffer Plan (E15/2958)
- [OCM113.3/07/15](#) – Updated Traffic Management Plan (E15/2959)
- [OCM113.4/07/15](#) – Response to Matters Raised at Mediation (E15/2960)

**Voting Requirements:** Simple Majority

**OCM113/07/15 COUNCIL DECISION / Officer Recommendation:**

Moved Cr Hawkins, seconded Cr Erren

**That Council:**

1. **Grant development approval for an Extractive Industry at Lot 102 (#491) King Road, Oldbury, for the application submitted by Roberts Day on behalf of the landowner Jacinta M. O’Callaghan, subject to the following conditions:**
  - a. **This planning approval shall be valid for a period of four years expiring on 26 July 2019.**
  - b. **The excavation activities shall be restricted to a level no lower than 2 metres above the highest known water table**
  - c. **Operating hours are restricted to 7:00am to 5:00pm Monday to Saturday. No operations shall be permitted on Sundays or Public Holidays**
  - d. **The landowner shall submit an Annual Compliance Assessment Report to the Shire by 31 December each year.**
  - e. **Any buildings/structures associated with the excavation activities such as site office, equipment store and vehicle parking area shall be screened from view from any adjacent roads or properties to the satisfaction of the Director Planning Services.**
  - f. **Outside lighting should be angled to minimise light impacts on neighbouring properties.**
  - g. **Prior to the commencement of works, the landowner shall submit to the Shire a Community Consultation Plan. Once approved, the plan is to be implemented in its entirety.**
  - h. **Prior to the commencement of works, the Traffic Management Plan prepared by Contraflow dated 22 June 2015 shall be approved by the Director Engineering Services and thereafter implemented.**
  - i. **Prior to the commencement of works, details of the upgrading of the existing crossover shall be submitted to and approved by the Director Engineering Services.**
  - j. **Prior to the commencement of works, details of the upgrading of King Road adjacent to the site entrance shall be submitted and approved by the Director Engineering Services. Details shall incorporate 30mm asphalt surface to prevent degradation caused by heavy vehicle movements, shall be submitted to and approved by the Shire.**
  - k. **Prior to the commencement of works, the land owner shall construct a driveway with a minimum length of 20m from the public road to the satisfaction of the Director Engineering Services.**



- l. Prior to the commencement of works, a Water Management Plan shall be prepared and submitted to the Director Engineering Services for approval and thereafter implemented.**
- m. Prior to commencement of works, a Landscape Rehabilitation Plan is to be submitted to and approved by the Director Engineering Services and thereafter implemented.**
- n. Prior to commencement of works, a Fire and Emergency Management Plan is to be prepared and submitted to the Director Engineering Services for approval.**
- o. Prior to the commencement of works, the Dust Management Plan prepared by SAGH Pty Ltd dated 12 January 2015 shall be approved by the Director Planning Services and thereafter implemented so as to minimise dust emissions and ensure that visible dust is not emitted beyond the boundaries of the development site**
- p. Prior to the commencement of works, the landowner shall implement noise attenuation measures in accordance with the approved Acoustic Assessment prepared by Herring Storer Acoustics, dated 9 February 2015.**
- q. Prior to the commencement of works, the landowner shall provide a sealed hardstand refuelling area bunded, drained and constructed in accordance with relevant Australian Standards. The refuelling area shall be drained to a pollutant receptor to prevent any spilled fuel entering the natural ground to the satisfaction of the Director Engineering Services. All refuelling shall take place within this hardstand area.**
- r. Within two years of the cessation of extraction from Stage 2B, the land shall be rehabilitated and revegetated to the satisfaction of the Director Engineering Services.**
- s. The landowner shall keep a register of the extent, location, environmental implications and remedial actions taken for any accidental contamination of soil or water resources in a logbook to be kept on-site and available for immediate inspection by the Shire.**
- t. The landowner shall ensure that no chemicals or potential liquid contaminants are disposed of on-site. The landowner shall implement measures to minimise the risk of spills or leaks of chemicals including fuel, oil or other hydrocarbons and shall immediately remove and safely dispose of any liquid resulting from spills or leaks of chemicals including fuel, oil or other hydrocarbons, whether inside or outside the low permeability compounds.**
- u. On site testing and monitoring of groundwater levels within the excavation area is to be undertaken during winter and spring of each year of excavation to;**
  - (i) confirm depth to groundwater table and ensure that a minimum 2 metre clearance is maintained between excavation floor and highest known groundwater;**
  - (ii) to verify that any potential contaminants, not limited to acid sulfates, are not liberated from the dunal systems as a result of mining activities; and**

- (iii) ensure management actions in accordance with the Department of Environment Regulation's guidelines "Treatment and management of disturbed acid sulfate soils" and "General Guidance on Managing Acid Sulfate Soils".

**Condition 1 Advice Notes**

1. In relation to condition (b), the Annual Compliance Assessment Report shall include an internal compliance audit of the Community Consultation Framework and all the development and licence approval conditions and management plans, complaints and complaint responses
  2. In relation to condition (d), the Annual Compliance Assessment Report shall include a report in summary on:
    - a. The community engagement activities carried out during the preceding year;
    - b. The Stakeholder interaction accrued out during the year, including the number and nature of any complaints made and the response to those complaints; and
    - c. The meetings of the Community Consultation Group. Any records kept by the operator pursuant to the Community Consultation Framework, including the minutes of the Community Consultation Group meetings must be provided to the local government if requested in writing. The annual Compliance Assessment Report and records kept pursuant to the Community Consultation Framework are to be made publicly available.
  3. In relation to condition (l), the Water Management Plan should address surface water and groundwater quality and quantity. A suitable network or groundwater monitoring bores should be established on site for monitoring groundwater levels and ensure suitable separation from maximum groundwater level (MGL) is achieved.
  4. In relation to condition (m), the Landscape Rehabilitation Plan should identify the extraction area, the required buffers to sensitive wetland systems and the post extraction land use. It should include measures to prevent adverse environmental impacts such as dust, erosion, silt deposition and turbidity in local waters and inadvertent impact outside the approved extraction area. The plan should describe the final re-contoured land surface and the method proposed for rehabilitation and revegetation of the areas disturbed by extraction to a standard suited to the next land use.
2. Grant Extractive Industry Licence for an Extractive Industry at Lot 102 (#491) King Road, Oldbury, subject to the following conditions:
- a. The extractive industry licence is granted for a term of four years from the date of this approval.
  - b. The applicant shall pay the annual extractive industries licence fee on or before 31 December each year as determined by the Shire of Serpentine Jarrahdale from time to time.

**CARRIED 5/4**

**Councillors Urban, Kirkpatrick and Rossiter voted against the motion**

<b>OCM114/07/15</b>	<b>Section 31 Reconsideration of conditions of approval – proposed extension to IGA Supermarket – Lot 1, Lot 2 and Lot 50 South Western Highway, Byford (P00621/06)</b>
Author:	Helen Maruta – Senior Planning Officer
Senior Officer/s:	Deon van der Linde – Acting Director Planning
Date of Report:	8 July 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Proponent:	Steve Allering and Associates
Owner:	Lenz Corp Pty Ltd
Date of Receipt:	23 March 2013
Lot Area:	7376 m <sup>2</sup>
Town Planning Scheme No 2 Zoning:	'Urban Development'
Metropolitan Region Scheme Zoning:	'Urban'

### Introduction

The purpose of the report is for Council to reconsider certain conditions imposed through the approval of the development application on Lot 1, Lot 2 and Lot 50 South Western Highway.

The development application being the subject of this reconsideration was determined by Council at its Ordinary Council Meeting of 24 February 2014, OCM14/07/14. The landowner, appealed two (2) conditions imposed through the above approval with the State Administrative Tribunal. As a result of a number of mediations and directions meetings, the State Administrative Tribunal has through a Section 31 request, invited Council to reconsider the conditions of approval granted with specific regard to conditions 3 and 4.

### Relevant Previous Decisions of Council:

OCM129/02/14 – Council resolved to grant planning approval under TPS2 for the extension of IGA Supermarket in Byford.

OCM014/07/14 – Council resolved to amend the planning approval granted on 24 February 2014 by modifying condition 1 and deleting condition 5.

### Community / Stakeholder Consultation:

No further community / stakeholder consultation was undertaken.

### Statutory Environment:

- Metropolitan Regional Scheme  
The site is zoned 'Urban Development' under the Metropolitan Regional Scheme
- Shire of Serpentine Jarrahdale Town Planning Scheme No 2  
The site is zoned 'Urban' under the Town Planning Scheme

### Financial Implications:

Should Council resolve not to reconsider specific conditions, the current appeal will be progressed through to a full hearing. This will result in the Shire requiring appointing an Attorney, Engineer and Planning consultant to represent the Shire through the appeal process.

**Alignment with our Strategic Community Plan:**

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments and provide facilities that serve the community's needs and encourage social interaction
Objective 6.2	Active and Connected People
Key Action 6.2.2	Use community facilities to provide social interactions for all age groups through appropriate activities and events

**Planning Assessment:**

Following the latest direction hearing at which the State Administrative Tribunal member noted that the appeal may be vacated by the applicant should the Shire construct the median strip rather than imposing such requirement on the applicant.

It must be noted that whilst the State Administrative Tribunal has alluded to this as a potential resolution to the appeal, that no decision has been made as to the validity or planning merits of the conditions.

Shire officers are of the opinion that it may be difficult to prove a valid nexus between the use and the need to construct a median restricting access to a left-in and left-out, as required by planning condition 3 on Abernethy Road, and the relocation of the existing left-in/out driveway on South Western Highway further north required by condition 4.

To further support the removal of condition 4 (imposed by Main Roads Western Australia), the Western Australian Planning Commission has on the advice of Main Roads Western Australia provided the following advice to the applicant as part of the dual approval required for the development.

*“Main Roads Western Australia advises that the subject land is affected by land requirements associated with the future upgrade of South Western Highway and the Abernethy Road / Beenyup Road intersection. At such time as upgrading is required access arrangements to the site will need to be reviewed, including closure of the Abernethy Road crossover and closure / relocation of crossover(s) onto South Western Highway.”*

The conditions which are the subject of review, are as follows:

**Condition 3**

Existing condition: Prior to the commencement of the works a traffic management plan shall be submitted to and approved by the Director Engineering and thereafter implemented. The Traffic Management Plan shall address issues including but not limited to;

- a) Details of truck access and egress routes;
- b) Details of upgrading George street including pedestrian crossover and traffic calming measures;
- c) Details of all street intersections;
- d) Construction of a full barrier median strip along Abernethy Road from the existing traffic island and extending past the excising IGA car park entrance and exit with the purpose of limiting the egress and ingress to the car park to be left in and left out only, without impeding access to the Byford Tavern to the satisfaction of the Director of Engineering and at the full cost of the land owner'
- e) Details of the relocation of South Western Highway access point;
- f) Traffic management signage during construction and in relation to operation of the site and
- g) Shared path facilities, bicycle parking facilities and end of trip facilities.

#### Condition 4

4. The Developer shall be responsible for all costs involved in the design and construction of the relocation of the existing left-in/out driveway on South Western Highway further north. This includes signage, road markings, relocation or services, street lighting and vegetation.

Proposed condition: Prior to the commencement of the works a traffic management plan shall be submitted to and approved by the Director Engineering and thereafter implemented. The Traffic Management Plan shall address issues including but not limited to;

- a) Details of truck access and egress routes;
- b) Details of upgrading George street including pedestrian crossover and traffic calming measures;
- c) Details of all street intersections;
- d) Traffic management signage during construction and in relation to operation of the site and
- e) Shared path facilities, bicycle parking facilities and end of trip facilities.

#### **Options and Implications:**

With regard to the determination of the reconsideration, Council has the following options:

- Option 1: Council may resolve to reconsider its decision of 24 February 2014 by modifying condition 3 (to remove the requirement to construct the median strip) and deleting condition 4 of the planning approval.

This would likely result in the matter been vacated by the State Administrative Tribunal with minimal cost to the Shire.

- Option 2: Council may resolve to leave the conditions as approved on 24 February 2014, in which case the matter is likely to proceed to a final hearing at the State Administrative Tribunal.

Option 1 is recommended

#### **Conclusion:**

The Shire officers are satisfied that the proposed revised conditions will not result in a negative impact on the surrounding area or traffic safety as the traffic median will be constructed by the Shire during the current financial year. Further the modification and removal may result in the vacating of the current appeal before the State Administrative Tribunal.

#### **Attachments:**

- [CONFIDENTIALOCM114.1/07/15](#) – Council Resolution OCM129/02/14 (CR14/26)

**Voting Requirements:** Simple Majority

**OCM114/07/15 COUNCIL DECISION / Officer Recommendation:**

**Moved Cr Moore, seconded Cr Urban**

**That Council:**

**Approves the revised condition 3 and deletion of condition 4 of the Planning Approval granted by Council on 24 February 2014 (as per attachment OCM114.1/07/15), for the application from Steve Allerding Associates on behalf of**



**the landowner Lenz Pty Ltd, for the extension of the existing supermarket on Lot 1, 2 and 50 South Western Highway, as follows:**

- a. (Condition 3) Prior to the commencement of the works a traffic management plan shall be submitted to and approved by the Director Engineering and thereafter implemented. The Traffic Management Plan shall address issues including but not limited to;**
  - i) Details of truck access and egress routes;**
  - ii) Details of upgrading George Street including pedestrian crossover and traffic calming measures;**
  - iii) Details of all street intersections;**
  - iv) Traffic management signage during construction and in relation to operation of the site and**
  - v) Shared path facilities, bicycle parking facilities and end of trip facilities.**
  
- b. (Condition 4) deleted**

**CARRIED 9/0**

<b>OCM115/07/15</b>	<b>Perth and Peel@3.5million – South Metropolitan Peel Sub-regional Planning Framework – Submission (SJ1369-06)</b>
Author:	Lauren Dujmovic – Strategic Planner
Senior Officer/s:	Deon van der Linde – Acting Director Planning
Date of Report:	9 July 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act

Proponent: Shire of Serpentine Jarrahdale  
 Owner: Various  
 Town Planning Scheme No 2 Zoning: Various  
 Metropolitan Region Scheme Zoning: Various

### Introduction

The purpose of this report is to consider the draft submission on behalf of the Shire of Serpentine Jarrahdale (the Shire) in regards to draft Perth and Peel@3.5million – South Metropolitan Peel Sub-regional Planning Framework.

### Background:

The Western Australian Planning Commission (WAPC) have recently released the draft Perth and Peel@3.5million suite of documents to provide a plan for the Perth and Peel region to accommodate 3.5 million people by 2050. The suite consists of four sub-regional planning frameworks which will be finalised to become sub-regional structure plans. These sub-regional structure plans will provide guidance to State and local government on residential and industrial development as well as supporting infrastructure. The South Metropolitan Peel Sub-regional Planning Framework is the sub-regional planning framework which relates to the Shire. The WAPC is currently seeking public comment on the draft Perth and Peel@3.5million suite of documents, providing the Shire with an opportunity to make a submission.

### Relevant Previous Decisions of Council:

There is no previous Council decision relating to this issue.

### Community / Stakeholder Consultation:

The draft Perth and Peel@3.5million suite of documents are currently being publicly advertised by the WAPC for public comment until 31 July 2015. All submissions received during the advertising period will be considered by the WAPC before the draft sub-regional planning frameworks are finalised as sub-regional structure plans.

### Comment:

#### Proposal

The Shire's draft submission on Perth and Peel@3.5million – South Metropolitan Peel Sub-regional Planning Framework is presented to Council to be endorsed prior to being finalised and submitted to the WAPC.

#### Main Issues

The following provides a brief summary of the main issues raised within the draft submission as shown in attachment **OCM115.1/07/15**.

### *Transport*

The Shire is supportive of the proposed Tonkin Highway extension through the south of the Shire to connect with Forrest Highway south west of Pinjarra. This will provide an important regional transport connection to support the West Mundijong and Cardup industrial areas. The Shire also supports the proposed southern extension of Nicholson Road to Mundijong Road. It is proposed that Doley Road be extended south and that Malarkey Road be realigned. These proposals are not consistent with the Byford District Structure Plan and issues have been raised in the submission. The proposed the post-2031 investigation of the freight rail realignment to travel adjacent to the Tonkin Highway is supported by the Shire. The timing of the freight rail realignment and its impact on grade separated crossings in the Mundijong Whitby Development Contribution Plan have been highlighted in the submission.

A Transit Priority Route to connect Armadale with Byford and Mundijong is proposed to be implemented by 2025. A potential passenger rail between Armadale and Byford is identified post-2031 with Byford Station to be located at Thomas Road. The Byford Town Centre Local Structure Plan states the preferred location for the Byford Station is within the Byford Town Centre with the Thomas Road location considered unacceptable to achieve a transit oriented development. The Mundijong Whitby District Structure Plan identified the future passenger rail extension to Mundijong and the Shire maintains that this should be included in the South Metropolitan Peel Sub-regional Planning Framework.

### *Urban*

The South Metropolitan Peel Sub-regional Planning Framework appears to have generally identified Urban land within the Shire in areas which are zoned Urban Development, Residential, Special Residential and some areas zoned Rural Living A under Town Planning Scheme No. 2 (TPS2). A portion of land which is excluded from the Byford District Structure Plan as it surrounds the Byford Trotting Complex, is identified as Urban under the South Metropolitan Peel Sub-regional Planning Framework. One of the objectives of the Byford District Structure Plan was to maintain a buffer between the Byford Trotting Complex and the surrounding Urban areas. Identifying this portion of land as Urban is not consistent with Byford District Structure Plan.

### *Future Investigation Areas*

Land identified for future investigation under the Rural Strategy Review 2013 in Oakford/Oldbury, Serpentine and Hopeland has been identified to remain as Rural under the South Metropolitan Peel Sub-regional Planning Framework. This is not supported by the Shire as it is not consistent with the Rural Strategy Review 2013. The Shire supports the inclusion of a portion of land in Mundijong and two portions of land in Cardup as Urban Expansion within the Framework. The Shire maintains that the whole area between Byford and Mundijong in Cardup be identified for future investigation as contained within the Rural Strategy Review 2013.

### *Rural Residential*

The South Metropolitan Peel Sub-regional Planning Framework consolidates Rural Residential areas to the west of Tonkin Highway and within the Darling Downs Residential and Stables Policy Area as identified in the Rural Strategy Review 2013. This is greatly supported by the Shire to create consolidated rural living precincts. Land located south of the Mundijong Whitby Urban area was identified within the Residential and Stables Policy Area in the Rural Strategy Review 2013 to be developed as an equine precinct. Under the South Metropolitan Peel Sub-regional Planning Framework, this land is identified as Rural Residential which is greatly supported by the Shire.

### *Farmlet*

The South Metropolitan Peel Sub-regional Planning Framework has designated all land zoned Farmlet or located within the Farmlet Policy Area as Rural, stating that opportunities

for rural living 'may remain static or even decrease'. The objectives and intent of the Farmlet and Rural zones and policy areas greatly differ and the Shire considers that Rural Residential more closely aligns with Farmlet. The Shire requests that land zoned Farmlet under TPS2 be identified as Rural Residential to more accurately reflect the intent of the zone. The Shire also requests that areas identified as Farmlet in the Rural Strategy Review 2013 are included as Rural Residential, with further considerations regarding this matter highlighted in the submission.

### Options and Implications

Option 1 – Resolve to endorse the draft submission.

Option 2 – Resolve to not endorse the draft submission.

Option 1 is recommended.

### **Attachments:**

- [OCM115.1/07/15](#) – Perth and Peel@3.5million – South Metropolitan Peel Sub-regional Planning Framework – Submission to Western Australian Planning Commission (OC15/12890)

### **Alignment with our Strategic Community Plan:**

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments and provide facilities that serve the community's needs and encourage social interaction

### **Statutory Environment:**

The following documents have been considered in the draft submission:

- Town Planning Scheme No. 2
- Rural Strategy Review 2013
- Byford District Structure Plan
- Mundijong Whitby District Structure Plan
- Draft West Mundijong District Structure Plan
- Byford Town Centre Local Structure Plan

### **Financial Implications:**

There are no direct financial implications regarding this matter.

**Voting Requirements:** Simple Majority

### **OCM115/07/15 COUNCIL DECISION / Officer Recommendation:**

**Moved Cr Hawkins, seconded Cr Moore**

**That Council:**

1. **Endorse the draft submission on Perth and Peel@3.5million – South Metropolitan Peel Sub-regional Planning Framework, as contained within attachment OCM115.1/07/15.**
2. **Finalise the submission on Perth and Peel@3.5million – South Metropolitan Peel Sub-regional Planning Framework and send to the Western Australian Planning Commission by 31 July 2015.**

**CARRIED 9/0**

<b>OCM116/07/15</b>	<b>Lot 182 Tuart Road, Oakford - Proposed 'Outbuilding' (Shed) (P08883/01)</b>
Author:	Marcel Bridge – Planning Officer
Senior Officer/s:	Deon van der Linde – Acting Director Planning
Date of Report:	7 July 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Owner: Daryl Thatcher  
 Date of Receipt: 5 June 2015  
 Lot Area: 20 989m<sup>2</sup> (2.09ha)  
 Town Planning Scheme No 2 Zoning: 'Rural Groundwater Protection'  
 Metropolitan Region Scheme Zoning: 'Rural – Water Protection'

### Introduction

The purpose of the report is to consider the development application for a 'Shed' on Lot 182 Tuart Road, Oakford (the site).

The application is being presented to Council for consideration as Shire officers do not have delegation to consider applications on land zoned 'Rural Groundwater Protection'.



Aerial Photograph

### Background:

#### Existing Development:

The site is currently vacant with dispersed vegetation. There is an existing building envelope in which the submitted plans identified for a future residential dwelling to be constructed within the envelope adjacent to the proposed shed.

#### Proposed Development:

The proposal is for the construction of a 300m<sup>2</sup> shed, measuring 30m x 10m with a wall height of 4.5m, to be located within the building envelope.



**Relevant Previous Decisions of Council:**

There is no previous Council decision relating to this application/issue.

**Community / Stakeholder Consultation:**

Given that the proposed outbuilding (shed) is located within the building envelope no consultation has been undertaken.

**Statutory Environment:**

- Metropolitan Regional Scheme  
The site is zoned 'Rural Water Protection' under the Metropolitan Regional Scheme
- Shire of Serpentine Jarrahdale Town Planning Scheme No 2  
The site is zoned 'Rural Groundwater Protection' under the Town Planning Scheme

**Financial Implications:**

Nil

**Alignment with our Strategic Community Plan:**

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments and provide facilities that serve the community's needs and encourage social interaction

**Planning Assessment:**

The application has been assessed in accordance with the relevant statutory documents. Local Planning Policy 17 (LPP 17) – Residential and Incidental Development, is generally used to assess applications for sheds with regard to floor area, setbacks and heights. Due to the zoning of the property 'Rural Groundwater Protection', not being included in the above policy the application is required to be determined by Council.

Should the proposal have been assessed under the requirements of LPP 17 – Residential and Incidental Development, the application would have been determined under delegated authority.

**Building Design and Location**

The shed will be constructed of trim deck with a finished colour of shale grey. The proposed height and floor area is considered to be acceptable in 'Rural' areas and would not impact negatively on the surrounding area.

With regard to the location, the proposed shed is located wholly within the approved building envelope. The future 'Single Dwelling' will be located in front of the proposed shed thereby screening the shed further.

**Potential Nutrient Leaching**

Given the nature of the proposed development primarily for storage and that the proposed shed will be constructed on a concrete base, it is unlikely to have any negative impact on the groundwater through potential leaching.

**Options and Implications:**

With regard to the determination of the application for planning approval under Town Planning Scheme No. 2, Council has the following options:

Option1: Council may resolve to approve the application subject to conditions.

The approval of the application may result in a precedent for similar developments to be undertaken within the area.

Option 2: Council may resolve to refuse the application.

From a planning perspective the proposal has merit to be considered favourably. Should the application be refused it may be successfully appealed with the State Administrative Tribunal.

Option 1 is recommended.

### **Conclusion:**

The proposal for an 'outbuilding' (shed) is considered to be consistent with the end use of the site being primarily for rural residential lifestyle. As noted above, the proposal is unlikely to have a negative impact on the amenity or character of the area and will not result in the leaching of nutrients into the groundwater.

### **Attachments:**

- [OCM116.1/07/15](#) – Site Plan, Cross Sections and Locality Plan (E15/2954)

**Voting Requirements:** Simple Majority

### **OCM116/07/15 COUNCIL DECISION / Officer Recommendation:**

**Moved Cr Moore, seconded Cr Erren**

**That Council:**

- 1. Approves the application submitted by Daryl Thatcher for an 'Outbuilding' (shed) on Lot 182 Tuart Road, Oakford, subject to the following conditions:**
  - a. The shed shall not to be used for human habitation, commercial or industrial purposes, the parking of a commercial vehicle or the stabling of horses or other livestock unless the written approval of the Shire has first been obtained.**
  - b. The shed shall not be located within 1.2 metres of a septic tank or 1.8 metres of a leach drain, or other such setbacks as required by relevant Legislation for other types of effluent disposal systems.**
  - c. All storm water to be disposed of within the property. Direct disposal of storm water onto the road, neighbouring properties, watercourses and drainage lines is prohibited.**

**CARRIED 9/0**

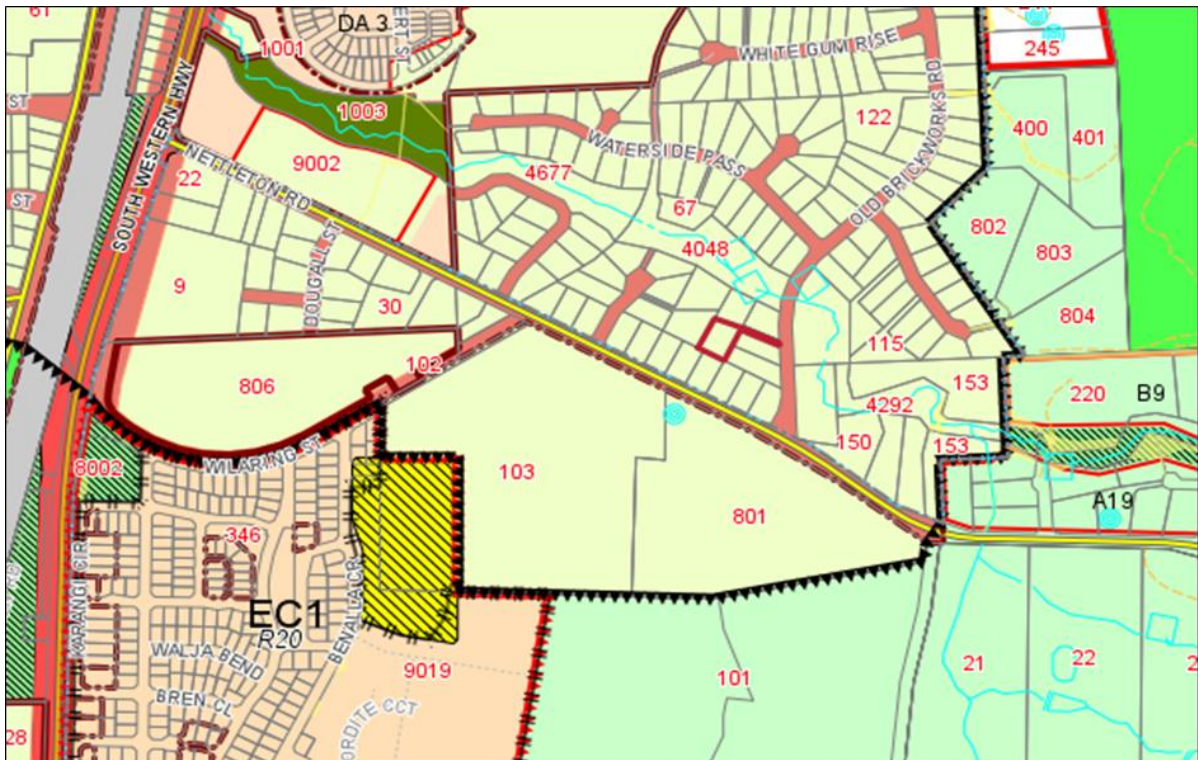
<b>OCM117/07/15</b>	<b>Lot 84 (#45) Old Brickworks Road, Byford – Proposed Carport / Shed (P0182/01)</b>
Author:	Marcel Bridge – Planning Officer
Senior Officer/s:	Deon van der Linde – Acting Director Planning
Date of Report:	3 July 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Owner: Bernard Schoof  
 Date of Receipt: 17 June 2015  
 Lot Area: 2 712m<sup>2</sup>  
 Town Planning Scheme No 2 Zoning: 'Urban Development'  
 Metropolitan Region Scheme Zoning: 'Urban'

**Introduction**

The purpose of the report is to consider the development application for a carport and shed on lot 84 (#45) Old Brickworks Road, Byford (the site).

The application is being presented to Council for consideration as Shire officers do not have delegations to consider applications which do not comply with Local Planning Policy 17 (LPP 17) – Residential and Incidental Development.



Context Plan – Subject Property

**Background:**

Existing Development:

The site is currently developed with a 'Single Dwelling' and incidental outbuildings (stables).

Proposed Development:

The proposal is for the construction of a carport measuring 5m x 4m (20m<sup>2</sup>), and a shed measuring 7.2 x 6m with a wall height of 3m (43.2m).

**Relevant Previous Decisions of Council:**

There is no previous Council decision relating to this application/issue.

**Community / Stakeholder Consultation:**

The application has been referred as follows:

Community and Stakeholders:

As per section 6.3 of the Serpentine Jarrahdale Town Planning Scheme No 2 (TPS 2) the adjoining landowners have been notified of the proposed application and provided with an opportunity to comment. In this regard no submissions have been received.

**Statutory Environment:**

- Shire of Serpentine Jarrahdale Town Planning Scheme No 2  
The site is zoned 'Urban Development'
- Local Planning Policy 17 – Residential and Incidental Development.

**Financial Implications:**

Nil

**Alignment with our Strategic Community Plan:**

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments and provide facilities that serve the community's needs and encourage social interaction

**Planning Assessment:**

In terms of the zoning 'Urban Development' prior to development, a local structure plan should be approved by Council. In this instance it is not considered reasonable to require the landowner to prepare a local structure plan.

The requirement to prepare a local structure plan is to ensure that the future development of the area is not compromised by certain uses. The proposal is considered to be consistent with the existing use and will not have a negative impact on the future development of the area.

In terms of LPP 17 – Residential and Incidental Development, the maximum floor area of all (existing and proposed) outbuildings should not exceed 10% of the area of the lot or 60m<sup>2</sup> (whichever is the smallest). The combined floor area of the outbuildings (existing and proposed) exceeds this requirement, having a total area of 90m<sup>2</sup> (proposed 43.2m<sup>2</sup> and existing 46.8m<sup>2</sup>). In addition the policy prescribes a wall height of 2.4m; the proposed wall height is 3.0m.

Taking into consideration the locality and the existing development on the site it is considered that the proposed development will not have a negative impact on the amenity or character of the surrounding area.

**Options and Implications:**

With regard to the determination of the application for planning approval under Town Planning Scheme No. 2, Council has the following options:

Option1: Council may resolve to approve the application subject to conditions.

Approval of the application will result in the proposal being proceeded, without any negative impact on the surrounding area.

Option 2: Council may resolve to refuse the application.

Refusal of the application may result in an appeal to the State Administrative Tribunal which may not be able to be successfully argued.

Option 1 is recommended.

**Conclusion:**

Whilst the proposal is not directly in line with LPP 17 – Residential and Incidental Development, the application has been considered on its planning merits. As such it is the opinion of the Shire officers that the proposal will not be detrimental to the amenity or character of the area nor will it prejudice the preparation of a future Local Structure Plan for the area.

**Attachments:**

- [OCM117.1/07/15](#) – Development Plans (E15/2944)

**Voting Requirements:** Simple Majority

**OCM117/07/15 COUNCIL DECISION / Officer Recommendation:**

Moved Cr Urban, seconded Cr Erren

That Council:

1. Approves the application submitted by Bernard Schoof for a shed and carport at Lot 84 Old Brickworks Road, Byford, subject to the following conditions:
  - a. The outbuildings shall not be used for any commercial or industrial purposes (including 'Home Occupation'), the parking of a commercial vehicle or the stabling of horses or other livestock, unless the written approval of the Shire has first been obtained.
  - b. All storm water shall be disposed of within the property. Direct disposal of storm water onto the road, neighbouring properties, watercourses and drainage lines is not permitted.
  - c. The shed shall not be located within 1.2 metres of a septic tank or 1.8 meters of a leach drain, or other such setbacks as required by relevant legislation for other types of effluent systems.

**CARRIED 9/0**



<b>OCM118/07/15</b>	<b>Lot 81 (#12) Simmental Place, Oakford – Proposed ‘Ancillary Accommodation’ (P04085/02)</b>
Author:	Marcel Bridge – Planning Officer
Senior Officer/s:	Deon van der Linde – Acting Director Planning
Date of Report:	3 July 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Proponent: Clever Cabins Pty Ltd  
 Owner: John and Kaylene McTernan  
 Date of Receipt: 15 May 2015  
 Lot Area: 21800m<sup>2</sup> (2.18m<sup>2</sup>)  
 Town Planning Scheme No 2 Zoning: ‘Special Rural’  
 Metropolitan Region Scheme Zoning: ‘Rural’

### Introduction

The purpose of the report is to consider the development application for an ‘Ancillary Accommodation’ on Lot 81 (#12) Simmental Place, Oakford (the site).

The application is being presented to Council for consideration as the proposal is not in accordance with the provisions of Local Planning Policy 17 (LPP17) – Residential and Incidental Development.



Aerial Photograph

### Background:

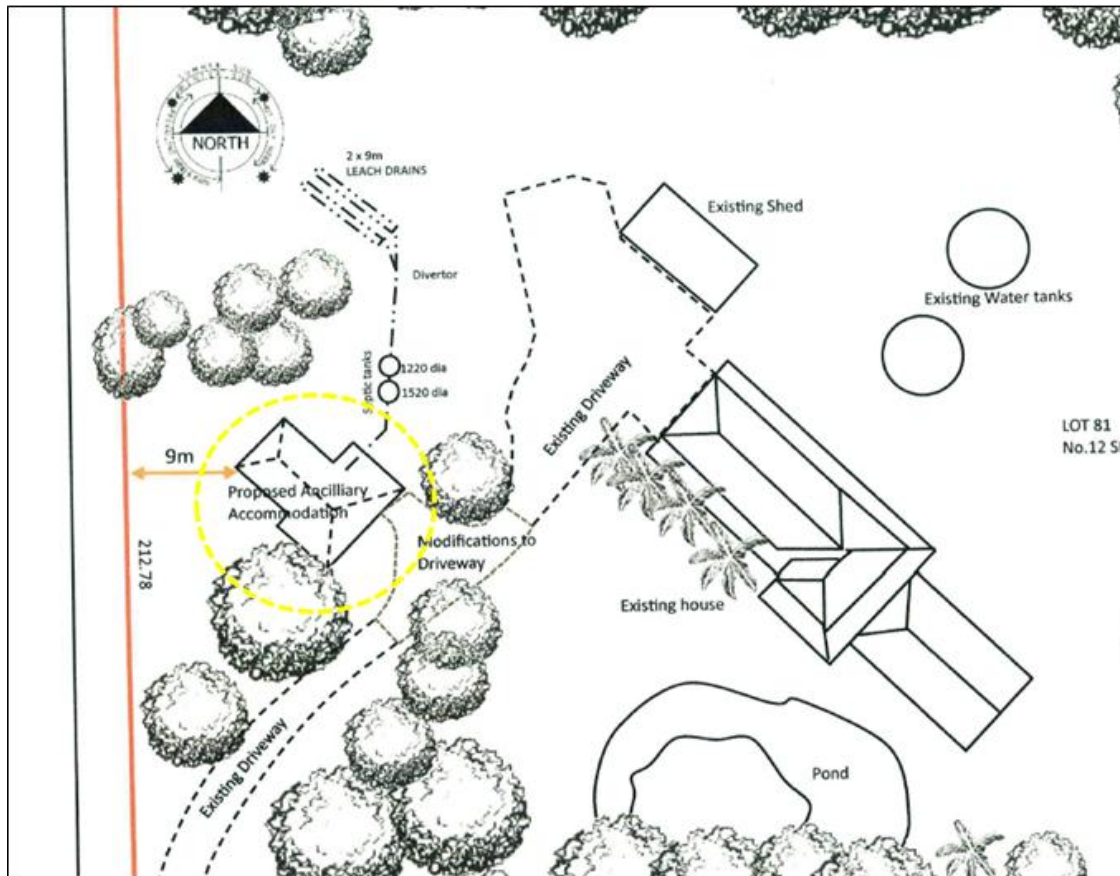
#### Existing Development:

The subject property is zoned ‘Special Rural’ and measures 2.18ha in size. The site is currently developed with a single dwelling and ancillary buildings. The proposed ‘Ancillary Accommodation’ is proposed west of the existing dwelling.

#### Proposed Development:

It is proposed in addition to the existing ‘Single Dwelling’ to construct an ‘Ancillary Accommodation’ unit. The proposed ‘Ancillary Accommodation’ unit will be located 20m west of the existing ‘Single Dwelling’ and have a total floor area of 74.4m<sup>2</sup>.

The proposed 'Ancillary Accommodation' is proposed to be constructed 9m from the western boundary of the site. The proposed 'Ancillary Accommodation' unit will be constructed using fibre cement, colour bond and aluminium windows, and painted in surf mist, shale grey and basalt.



Site Plan

**Relevant Previous Decisions of Council:**

There is no previous Council decision relating to this application/issue.

**Community / Stakeholder Consultation:**

As per the requirements of Local Planning Policy 17 – Residential and Incidental Development, the application has been referred to the adjoining owners for comment. No submissions were received within the notice period.

**Statutory Environment:**

- Metropolitan Regional Scheme  
The site is zoned 'Urban' under the Metropolitan Regional Scheme
- Shire of Serpentine Jarrahdale Town Planning Scheme No 2  
The site is zoned 'Special Residential' under the Town Planning Scheme
- Local Planning Policy 17 – Residential and Incidental Development.

**Financial Implications:**

Nil

**Alignment with our Strategic Community Plan:**

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments and provide facilities that serve the community's needs and encourage social interaction

**Planning Assessment:**

The application has been assessed in accordance with the relevant statutory documents. The existing zoning of the site is 'Special Rural', permitting an 'Ancillary Accommodation' unit as an 'AA' use. (Council may, at its discretion permit the use).

In terms of Local Planning Policy 17 – Residential and Incidental Development, the proposed 'Ancillary Accommodation' does not comply with the following aspects of the policy:

- Floor area  
The minimum floor area for a lot zoned 'Special Rural' is to be no less than 100m<sup>2</sup>. The proposed floor area measures 74.4m<sup>2</sup>.
- Connection to the main dwelling  
The 'Ancillary Accommodation' is to either be constructed under the same roof as the main 'Single Dwelling' or be located a minimum of 10m from the existing 'Single Dwelling'. In this regard the proposed 'Ancillary Accommodation' is not proposed under the same roof and is located 20m from the existing 'Single Dwelling'.

**Impact of variation:**

Given the size of the lot 21 800m<sup>2</sup> (2.18ha) and the existing vegetation on the site will largely screen the proposed 'Ancillary Accommodation' from public view, and the fact that the proposed 'Ancillary Accommodation' will be sharing access with the existing 'Single Dwelling'. The Shire officers are of the opinion that the proposed variation will not result in a negative impact on the amenity or character of the surrounding area.

**Options and Implications:**

With regard to the determination of the application for planning approval under Town Planning Scheme No. 2, Council has the following options:

Option 1: Council may resolve to approve the application subject to conditions.

The approval of the application will not result in a negative impact on the amenity or character of the area.

Option 2: Council may resolve to refuse the application.

Refusal of the application may result in an appeal to the State Administrative Tribunal which may not be able to be successfully argued.

Option 1 is recommended.

**Conclusion:**

Construction of 'Ancillary Accommodation' has become popular with young and old and has a number of benefits. Within a residentially zoned area 'Ancillary Accommodation' could assist in the affordability of owning your own home through the rental of the 'Ancillary Accommodation'. However, it is not considered appropriate to allow 'Ancillary Accommodation' to be rented out on the open market when constructed with a 'Rural' areas as this may have a negative impact on the amenity and character of the area. To ensure the amenity and character is retained should the application be approved a condition is recommended, as per the relative policy, restricting the use of the 'Ancillary Accommodation' to family of the occupier of the existing 'Single Dwelling'.

**Attachments:**

- [OCM118.1/07/15](#) – Site Plan, Elevations, Locality Plan and BAL assessment (E15/3143)



**Voting Requirements:** Simple Majority

**Officer Recommendation:**

**That Council:**

1. Approves the application submitted by Clever Cabins Pty Ltd on behalf of the landowners John and Kaylene McTernan for an 'Ancillary Accommodation' unit on Lot 81 (#12) Simmental Place, Oakford, subject to the following conditions:
  - a. Any occupier of the ancillary accommodation shall be a member of the family of the occupier of the main dwelling.
  - b. In relation to condition (a) above, a notification under Section 70A of the Transfer of Land Act 1893 must be registered over the certificate of title to the land, the subject of the proposed development, to notify owners and prospective purchasers of the land that restrictions apply to the use of the ancillary accommodation as stipulated in condition (a) prior to the commencement of works. The Section 70A Notification shall be prepared by the Shire's solicitors to the satisfaction of the Shire of Serpentine Jarrahdale and all costs of and incidental to the preparation of and registration of the Section 70A Notification including the Shire's solicitors' costs shall be met by the applicant or the owner of the land (as per attachment OCM118.1/07/15).
  - c. Prior to occupation an application to construct or install an apparatus for the treatment of sewage will need to be submitted. The use of non-standard effluent disposal systems may be required, should there be a 2 meter separation between the base of the leach drain and the highest known groundwater level.
  - d. All storm water to be disposed of within the property. Direct disposal of storm water onto the road, neighbouring properties, watercourses or drainage lines is not permitted.
  - e. Development must be in accordance with the Bushfire Attack Level Assessment prepared by Rural Urban Interface Consultancy Fire dated 4 June 2015 which specifies construction to Bushfire Attack Level 12.5 and to Australian Standard 3959 (as per attachment OCM118.1/07/15).

**OCM118/07/15 COUNCIL DECISION / New Motion:**

Moved Cr Wilson, seconded Cr Rossiter

**That Council:**

1. Approves the application submitted by Clever Cabins Pty Ltd on behalf of the landowners John and Kaylene McTernan for an 'Ancillary Accommodation' unit on Lot 81 (#12) Simmental Place, Oakford, subject to the following conditions:
  - a. Prior to occupation an application to construct or install an apparatus for the treatment of sewage will need to be submitted. The use of non-standard effluent disposal systems may be required, should a 2 meter separation between the base of the leach drain and the highest known groundwater level, and a minimum 100m horizontal separation distance between the disposal system and existing drains, water courses or water bodies, cannot be achieved.
  - b. All storm water to be disposed of within the property. This shall be achieved by either soak wells or spoon drains or the use of storm water retention/re-use methods such as rainwater tanks or the grading of hardstand areas to lawns

**and garden beds. Direct disposal of storm water onto the road, neighbouring properties, watercourses or drainage lines is not permitted.**

- c. Development must be in accordance with the Bushfire Attack Level Assessment prepared by RUIC Fire dated 4 June 2015 which specifies construction to BAL 12.5 and to Australian Standard 3959 (attached).**

**CARRIED 9/0**

**Council Note: removal of conditions a. and b. to reflects the removal of the need for the occupant of the ancillary accommodation to be a family member of the main dwelling**



<b>OCM119/07/15</b>	<b>Final Adoption of Scheme Amendment No 191 – Modifications to appendix 5, ‘Landscape Protection Policy Area’ (SJ1694)</b>
Author:	Regan Travers– Senior Planning Officer
Senior Officer/s:	Deon van der Linde – Acting Director Planning
Date of Report:	9 July 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

Proponent: Roberts Day Pty Ltd  
 Owner: Various  
 Date of Receipt: 27 August 2014  
 Lot Area: Various  
 Town Planning Scheme No 2 Zoning: ‘Urban Development’  
 Metropolitan Region Scheme Zoning: ‘Urban’

### Introduction

The purpose of the report is to consider the final adoption of Scheme Amendment 191, to the Town Planning Scheme No 2, to modify Appendix 5, ‘Landscape Protection Policy Area’.

Shire officers do not have delegation to adopt scheme amendments as such the request for adoption is presented to Council for consideration.

### Background:

Appendix 5 of Town Planning Scheme No 2 is referred to in Clause 6.1.2 of Town Planning Scheme No 2, stipulating that Development Approval is required for ‘Single Dwellings’ to be constructed within the Local Planning Policy 8 area.

At the Ordinary Council Meeting of 10 November 2014, Council resolved to adopt Local Planning Policy 8 – ‘Landscape Protection’ in an amended form to allow areas that are zoned either ‘Urban Development’ or ‘Residential’ to be excluded from the policy area.

To finalise the adopted modification of Local Planning Policy 8 – ‘Landscape Protection’, Council initiated the subject scheme amendment.

### Relevant Previous Decisions of Council:

- OCM082/11/14 – Initiation of Scheme Amendment 191.

### Community / Stakeholder Consultation:

Government Agencies:

The amendment was referred to the Environmental Protection Authority (EPA) for consideration of the need for assessment under the Environmental Protection Act 1986 (the Act). The EPA advised that the amendment should not be assessed under the Act.

The State Heritage Office responded to the Shire’s consultation, advising of no objection to the proposed Scheme Amendment No.191.

Community and Stakeholders:

The scheme amendment has been advertised as per the Town Planning Regulations 1967, in addition to the required government agency comments four submission have been received from surrounding landowners.

Four submissions were received with one no objection and three providing various comments, which can be summarised as:

- Fee's should be refunded for residents affected by the Landscape Protection Area;
- Scheme Amendment should be further modified to exclude portions of land zoned Urban Development and Residential; and
- Scheme Amendment should be further modified to delete Appendix 5 from Town Planning Scheme No.2 and rely on the Planning Policy Map instead.

#### Response to Submissions

Fee's should be refunded for residents affected by the Landscape Protection Area. Shire officers believe matters regarding fee refunds are beyond the scope of the proposed Scheme Amendment.

Proposed Scheme map does not remove all areas zoned 'Urban Development' and should be further modified.

Shire officers acknowledge that the Scheme Amendment only focuses on specific land in the Whitby development site and Byford area. The Shire notes that an all encompassing Amendment is preferred, however there are implications for the building process if the Scheme Amendment is delayed to enable re-advertisement.

Shire officers note that individual landowners can initiate a similar Scheme Amendment if they wish to do so.

Scheme Amendment should be further modified to delete Appendix 5 from Town Planning Scheme No.2 and rely on the Planning Policy Map instead. Shire officers acknowledge the potential to delete the Appendix 5 map from the Scheme completely. Such a proposal would need to be run through the full Scheme Amendment process which can be initiated by any landowner.

#### **Statutory Environment:**

- Planning and Development Act 2005
- Town Planning Regulations 1967
- Town Planning Scheme No 2
- Local Planning Policy 8 – Landscape Protection

#### **Financial Implications:**

The Shire currently charges fee's for Planning Applications within the Local Planning Policy – 'Landscape Protection' area. The adoption of the scheme amendment will effectively reduce the area over which Local Planning Policy 8 – 'Landscape Protection' area applies, which may result in less applications being submitted to the Shire for consideration.

#### **Planning Assessment:**

The removal of the requirement for development approval to be obtained for single residential development within the Whitby Local Structure Plan area and specific land in Byford also provides benefits in ensuring the delivery of housing is streamlined, reducing unnecessary delays, providing certainty for homebuyers, and ensuring that there are no adverse impacts on housing affordability.

#### **Options and Implications:**

With regard to the determination of the application for planning approval under Town Planning Scheme No. 2, Council has the following options:

Option1: Council may resolve to adopt the scheme amendment without modifications.

Adoption without modification will enable the scheme amendment to be considered a seriously entertained document allowing the implementation of the scheme amendment.

Option 2: Council may resolve to adopt the scheme with modifications.

Adoption with modifications will result in the delay of the implementation of the scheme amendments.

Option 3: Council may resolve to abandon the scheme amendment.

Abandoning the scheme amendment would result in a conflict between the town planning scheme and the policy that has been adopted by Council.

Option 1 is recommended.

### Conclusion:

The Scheme Amendment to TPS 2 to remove residential land within the Whitby and Byford area from the Landscape Protection Policy Area is supported and is consistent with the principles of proper and orderly planning.

### Attachments:

- [OCM119.1/07/15](#) – Scheme Amendment Documentation (E15/1911)
- [OCM119.2/07/15](#) – Schedule of Submissions (E15/2066)

**Voting Requirements:** Simple Majority

### OCM119/07/15 COUNCIL DECISION / Officer Recommendation:

Moved Cr Wilson, seconded Cr Hawkins

That Council:

1. Pursuant to Part 5 of the Planning and Development Act 2005 adopt, without modification, Scheme Amendment 191 to the Town Planning Scheme No 2
2. Authorise the Shire President and the Chief Executive Officer to execute three (3) copies of the amendment documents in accordance with the Town Planning Regulations 1967 (as amended) including the fixing of the Council's common seal; and
3. Forward three (3) copies of the approved scheme amendment and associated documentation to the Western Australian Planning Commission.
4. Pursuant to Regulation 17(1) of the Town Planning Regulations (1967) (as amended), note the submissions received in respect of proposed Amendment No.191 to the Shire of Serpentine Jarrahdale Town Planning Scheme No.2, and endorse the Shire Officers responses to those submissions as contained in the Schedule of Submissions in attachment OCM119.2/07/15.

**CARRIED 9/0**

<b>OCM120/07/15</b>	<b>Byford Parking and Access Working Group – Outcomes and Recommendations (SJ963)</b>
Author:	Peter Varelis – Project Coordinator: Development Contributions
Senior Officer/s:	Gordon Allan – Director Engineering
Date of Report:	29 June 2015
Disclosure of Officers Interest:	In accordance with Section 5.70 of the Local Government Act an officer involved with the preparation of this report declares an interest as he owns property within the Shire.

**Introduction:**

The purpose of this report is to update Council on the progress of the Byford Town Centre Parking and Access Working Group (the Working Group) meetings and provide recommendations based on the outcomes of these meetings.

**Background:**

Council, at the Ordinary Meeting held 28 April 2014, resolved to form the Byford Parking and Access Working Group. The primary objectives of the Working Group were as follows:

- To provide a forum for Councillors and community members from the Byford Progress Association (BPA) to discuss access and parking issues in the Byford Town Centre with the Shire's Planning and Engineering officers;
- To discuss the viability of proposed solutions to the issues raised; and
- To discuss matters that impact South Western Highway and the rail reservation with Main Roads WA (MRWA) and Perth Transit Authority (PTA).

Since establishment of the group the following has occurred:

1. Access and parking issues were raised at initial meetings.
2. Officers have investigated issues and proposed solutions to these issues, including the preparation of concept civil designs.
3. Concept civil designs were presented and discussed.
4. State agencies including the PTA and MRWA made representation and provided input into the proposed solution.

**Relevant Previous Decisions of Council:**

OCM162/04/14 - Council nominated Cr Kirkpatrick, Cr Erren, Cr Rossiter and Cr Hawkins to be part of the Byford Parking and Access Working Group.

**Community / Stakeholder Consultation:**

Significant community and stakeholder consultation has occurred throughout the preparation of the Byford Town Centre Local Structure Plan and its relevant technical investigations including detailed traffic, parking and access assessments. Many of the outputs of these investigations have formed the basis of the recommendations from officers and the Working Group.

Notwithstanding the above, any proposed civil works recommended to be undertaken will follow the Shire's standard process for community and stakeholder consultation including letter drops to impacted landowners.

**Comment:**

Abernethy Road between South Western Highway and the Rail Reservation:

It was identified early in the Working Group meetings that the intersection of George Street and Abernethy Road is a safety hazard to motorists and pedestrians. This included

concerns with the full movement crossover to the Byford IGA. An early recommendation of the group was to extend the existing median in front of IGA to restrict right turn movements into and out of the IGA car park. Although this seemed like a simple solution, it was noted that the area up to the rail reservation (including the intersection with George Street) needed to be considered as a whole. Furthermore, given that the intersection was in such close proximity to South Western Highway and the rail reservation, MRWA and the PTA were provided the opportunity to attend discussions.

Shire officers prepared a series of civil concepts to improve safety in this area, including the aforementioned extension of the IGA median and a concept for a flush-median roundabout at the intersection with George Street. At the Working Group meeting held 22 April 2015 where MRWA and the PTA were present, it was concluded as follows:

Decision of the group 22/04/2015:

1. *Note that the round-a-bout concept presented is not feasible for the following reasons:*
  - a. *Priority given to the tavern which is not acceptable to the flow of traffic along Abernethy Road;*
  - b. *Stacking issues on Abernethy Road associated with the railway; and*
  - c. *Suitability of a round-a-bout at this location.*
2. *Agree that a standard intersection arrangement needs to be prepared which restricts movements out of George Street but maintains movement to the Byford Tavern because of its closed access from South Western Highway. Ultimately a restricted left in left out arrangement at George Street was generally agreed.*
3. *Shire officers are to prepare the concepts in consultation with state agencies and present them back to the group for discussion at the next meeting.*
4. *PTA investigate the potential for the installation of a predictor to minimise boom gate down time at Abernethy Road.*
5. *At the conclusion of the George Street / Abernethy Road design PTA investigate the potential for an additional pedestrian crossing on the southern side of Abernethy Road.*

Subsequent to the decision of the group, two intersection concept designs were prepared by Shire officers in consultation with MRWA (see Attachment 1). These concepts were presented at the Working Group meeting held 27 May 2015 where the PTA and MRWA were again present and it was concluded as follows:

Decision of the group 27/05/2015:

1. *Note that the concepts prepared by Shire officers (in consultation with MRWA) and presented to the group are safer options than the status quo but are not conducive to traffic movements for future and existing commercial business/enterprises.*
2. *In the context of 1 above, investigate the potential for a set of traffic lights at George Street with Shire officers and PTA / MRWA to discuss opportunities, issues and constraints, with particular regard to the coordination of signals with the rail crossing and South Western Highway.*
3. *Report back to the group with the outcomes of the investigation.*
4. *Extend the median to ensure left in and left out for the IGA crossover on Abernethy Road, request the Shire's operations team to commence these works.*
5. *Install timber posts on PTA land, IGA car park, request operations to commence these works.*
6. *Shire officers are to investigate intersections, cul-de-sacs, rail crossings, future rail crossing and overall 'big picture' transport planning issues and report back to the group with a staging and triggers plan for implementation. This will include the investigation of the closing of Larsen Road and installation of another level crossing within proximity of the Byford Town Centre (possibly south of Pittman Way).*



Following the decision of the group, MRWA undertook an analysis of the potential for a set of traffic lights at George Street and Abernethy Road (see Attachment 2). For the various safety reasons highlighted by MRWA it was concluded that traffic signals in this location are not feasible. On this basis, MRWA's preferred intersection arrangement for George Street and Abernethy Road is restricted movements (see Attachment 1). The details of the discussion between the Shire's officers and MRWA / PTA are outlined below as follows:

Matters discussed 04/06/2015:

1. MRWA presented an assessment of key issues and factors associated with the installation of traffic signals at the George Street and Abernethy Road intersection.
2. On the basis of the issues raised by MRWA (see Attachment A) the installation of traffic signals was deemed inappropriate.
3. MRWA in consultation with the PTA have recommended closing the Larsen Road rail crossing and opening a new crossing to the south of Pittman Way in accordance with the Byford Town Centre Local Structure Plan. By salvaging the existing rail crossing infrastructure the new crossing cost would be approximately \$300,000. Larsen Road will become a cul-de-sac.
4. By installing an additional crossing to the south of Pittman Way the recommendation to restrict movements at George Street is more conducive to commercial developments.
5. PTA recommended preparing a rail crossing contributions Local Planning Policy similar to the existing one for George Street.
6. The movement restrictions on George Street would not be implemented until such time as the Pittman Way crossing has been installed. Preparation of the Pittman Way rail crossing contributions Local Planning Policy will secure funding for this solution.
7. MRWA have also recommended to establish a typical cross section for George Street that is conducive to cyclists and pedestrians by potentially providing parking in the central median and not angled parking on the verges.

The PTA have also been requested to progress rail crossing designs for the future rail crossing south of Pittman Way and a pedestrian path on the southern side of the rail crossing at Abernethy Road. Furthermore, Shire officers have investigated the staging and development triggers required to facilitate major infrastructure changes in this part of the Byford Town Centre. An analysis of these infrastructure initiatives and triggers to undertaking the initiatives is provided (see Attachment 3). The Byford Town Centre Infrastructure Provision and Triggers Schedule formed the basis of discussions with the Working Group held on 13 July 2015. The matters discussed and general agreements at this meeting are outlined below:

Decision of the group 14/07/2015:

1. The meeting outcomes between Shire officers, MRWA and PTA were noted.
2. Infrastructure initiatives and triggers schedule was discussed in detail and agreed between members of the Working Group.
3. It was noted that the decisions of the meetings to date and the infrastructure initiatives and triggers schedule would be presented to Council as a recommendation of the Working Group.
4. It was also requested that the Shire pursue a long term lease agreement with PTA for parking along George Street to facilitate increased development along George Street.

Pittman Way Widening / Pittman Way Traffic Light:

To facilitate increased development envisaged under the Byford Town Centre Local Structure Plan the widening of Pittman Way (see Attachment 4) and signalisation at the intersection with South Western Highway (see Attachment 5) is required. As part of investigating these requirements, MRWA in consultation with landowners and members of the Working Group have identified a series of mature trees on the northern side of Pittman

Way worthy of retention. To ensure retention of these trees, Pittman Way is proposed to be realigned further south. To facilitate this widening and additional lanes to service the traffic signals with South Western Highway, the existing on-street parking along Pittman Way would be lost. In order to compensate for this loss in parking the Working Group has requested that the Shire pursue a long term lease agreement with PTA for parking along the rail reservation. This would allow the Shire to on-lease this land for parking to facilitate increased development adjacent to George Street.

The Council will be provided an opportunity to outline detailed requirements of this widening as part of the future Byford Town Centre Local Structure Plan modification being pursued for Lot 4 South Western Highway, Byford.

#### Closing of Larsen Road crossing and installation of Byford Town Centre Rail Crossing:

To enable the restriction of vehicle movements at the George Street and Abernethy Road intersection whilst minimising impacts to the access of commercial businesses along South Western Highway, it was identified that the additional crossing south of Pittman Way that is illustrated in the Byford Town Centre Local Structure Plan should be implemented (see Attachment 5). This crossing would significantly improve east-west Town Centre connectivity and provide patrons of the commercial businesses along South Western Highway alternative access to Abernethy Road via the proposed rail crossing and San Simeon Boulevard.

The PTA has advised that, to enable this crossing to be implemented, another crossing would have to be closed. Larsen Road was identified as the potential crossing that could be closed to allow a crossing south of Pittman Way to be implemented. Furthermore, the PTA advised that the opening of this crossing would not be as significant a cost as expected because existing rail crossing infrastructure could be salvaged from Larsen Road and utilised for the new rail crossing south of Pittman Way. Initial estimates without design indicate approx. \$300,000. These costs will be verified by a quantity surveyor once designs are complete. The reasoning for closing the Larsen Road rail crossing was that when San Simeon Boulevard is constructed it would provide an alternative route from Larsen Road to Abernethy Road and the Byford Town Centre. Furthermore, the existing full movement intersection of Larsen Road and South Western Highway as it currently stands is identified as a safety hazard.

To finance the establishment of the new crossing at Pittman Way it is proposed that a cost sharing mechanism is created by way of a Local Planning Policy, similar to the one that exists for George Street (LPP53). Funds would be levied from new commercial developments on a pro-rata basis within the Byford Town Centre to fund the establishment of the crossing. Details of this proposed LPP are still to be investigated including the provision of a detailed rail crossing design by PTA.

As highlighted in the Byford Town Centre Infrastructure Provision and Triggers Schedule (see Attachment 3), the restriction of movements at George Street would not be undertaken until the additional crossing south of Pittman Way is installed.

#### Restricted Movements at IGA Crossover:

The existing crossover at the IGA onto Abernethy Road is an existing safety hazard requiring rectification. As highlighted in the Working Group's decision on 27/5/2015, the Shire will now extend the median to restrict vehicle movements at this crossover to left in and left out only. The landowner will be consulted on these works and the Shire will undertake this as part of the 2015/16 operations works program.

**Conclusion:**

Many of the issues discussed as part of the Working Group are longer term strategic matters. However, as decisions are made on an incremental basis the broader perspective of the eastern and western side of the Byford Town Centre needs to be considered. For this reason the Byford Town Centre Infrastructure Provision and Triggers Schedule was developed by the Working Group (see Attachment 3). This schedule provides a chronological outline of the events and triggers required before major development is approved and infrastructure decisions are made. As more development occurs and the Byford Town Centre Local Structure Plan is proposed to be modified, the Shire's officers, the broader community (through consultation) and Council will have the opportunity to consider the specific infrastructure and development in more detail and in the context of site specific land use.

**Attachments:**

- [OCM120.1/07/15](#) - George Street and Abernethy Road, Byford – Intersection Concept Designs (E15/3300)
- [OCM120.2/07/15](#) - Meeting Outcomes with Main Roads WA and Shire Officers (E15/3301)
- [OCM120.3/07/15](#) — Byford Town Centre Infrastructure Provision and Triggers Schedule (E15/3302)
- [OCM120.4/07/15](#) - Pittman Way Widening (E15/3303)
- [OCM120.5/07/15](#) - Byford Town Centre Local Structure Plan – Movement Plan (E15/3317)
- [OCM120.6/07/15](#) - Byford Access and Strategy Group Meetings – Decision Record (E15/3304)

**Alignment with our Strategic Community Plan:**

Objective 3.1	Urban Design with Rural Charm
Key Action 3.1.1	Maintain the area's distinct rural character, create village environments and provide facilities that serve the community's needs and encourage social interaction
Objective 3.2	Appropriate Connecting Infrastructure
Key Action 3.2.2	Plan and develop public transport networks link the community with the built and natural environment.
Objective 4.1	Sustainable Industries
Key Action 4.1.3	Develop transport, communication technology and utilities infrastructure.

**Statutory Environment:**

- *Metropolitan Region Scheme*
- *Town Planning Scheme No.2*
- *Byford Town Centre Local Structure Plan*

**Financial Implications:**

The various infrastructure initiatives outlined in this report will be sourced from a variety of funding sources. A brief summary is provided below:

- Pittman Way Widening – Structure Planning Amendment and Future Development Applications
- Pittman Way Traffic Signals – Main Roads WA funded due to South Western Highway
- Town Centre Rail Crossing / Closing of Larsen Road – Future Local Planning Policy
- George Street / Abernethy Road Restricted Intersection – Municipal Funds / Grant Funding Applications (possible 2016/2017)
- Restricted Movements IGA Crossover – 2015/2016 Maintenance Budget

**Voting Requirements:** Simple Majority

**Officer Recommendation:**

**That Council:**

1. Endorse the decisions and recommendations of the Byford Access and Parking Working Group meetings detailed in attachment OCM120.6/07/15.
2. Endorse the findings and recommendations outlined in the Byford Town Centre Infrastructure Provision and Triggers Schedule prepared by the Byford Access and Parking Working Group as shown in attachment OCM120.3/07/15.
3. Pursue a leasing arrangement with the Perth Transit Authority so that the Shire has the ability to on-lease land within the Perth to Bunbury Rail Reservation where it adjoins commercial development adjacent to George Street.
4. Request that a Local Planning Policy is developed to coordinate financial contributions from commercial development which has an impact and will reap benefit from the future rail crossing south of Pittman Way as illustrated in the Byford Town Centre Local Structure Plan.

**OCM120/07/15 COUNCIL DECISION / Alternative Recommendation:**

**Moved Cr Erren, seconded Cr Rossiter**

**That Council:**

1. Endorse the decisions and recommendations of the Byford Access and Parking Working Group meetings detailed in attachment OCM120.6/07/15 for public advertising in accordance with the advertising procedures set out in Part 6.3 of Town Planning Scheme No.2.
2. Endorse the findings and recommendations outlined in the Byford Town Centre Infrastructure Provision and Triggers Schedule prepared by the Byford Access and Parking Working Group as shown in attachment OCM120.3/07/15 for public advertising in accordance with the advertising procedures set out in Part 6.3 of Town Planning Scheme No.2..
3. Pursue a leasing arrangement for land which does not already have a lease with the Public Transport Authority so that the Shire has the ability to on-lease land within the Perth to Bunbury Rail Reservation where it adjoins commercial development adjacent to George Street.
4. Request that a Local Planning Policy is developed to coordinate financial contributions from commercial development which has an impact and will reap benefit from the future rail crossing south of Pittman Way as illustrated in the Byford Town Centre Local Structure Plan.

**CARRIED 9/0**

**Council Note: Conditions 1 and 2 were amended to include the advertising in accordance with Part 6.3 of the Town Planning Scheme No 2.**

**COUNCIL DECISION:**

Moved Cr Wilson, seconded Cr Piipponen

That the meeting be closed to members of the Public at 7.52pm to allow Council to discuss Confidential Item OCM121/07/15 – Chief Executive Officer Contract Renewal.

**CARRIED 9/0**

Members of the public were asked to leave the meeting whilst confidential item OCM121/07/15 was discussed. The doors were closed at 7.53pm.

<b>OCM121/07/15</b>	<b>Confidential - Chief Executive Officer Contract Renewal (H0245)</b>
Author:	John Phillips - Consultant
Senior Officer:	Councillor Keith Ellis – Shire President
Date of Report:	10 July 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

**Voting Requirements:** Simple Majority

**OCM121/07/15 COUNCIL DECISION / Officers Recommendation:**

Moved Cr Wilson, seconded Cr Hawkins

That Council endorses the contract of employment with Mr. Gorbunow for the period 12 March 2016 to 30 July 2017 and authorises the Shire President to execute the document in accordance with its terms and conditions.

**CARRIED 6/3**

Councillors Urban and Kirkpatrick voted against the motion

**COUNCIL DECISION:**

Moved Cr Erren, seconded Cr Piipponen

That the meeting be reopened to the public at 7.57pm.

**CARRIED 9/0**

Members of the public returned to the Chambers and the Presiding Member advised that item OCM121/07/15 was carried with a vote of 6/3.



<b>OCM128/07/15</b>	<b>Briggs Park BMX Relocation (SJ1213)</b>
Author:	Councillors John Kirkpatrick
Date of Report:	17 July 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

I wish for the following motion to be brought to the next Ordinary Council Meeting 27 July 2015

**Councillors Motion:**

That this Council apply in the next round of Community Sporting and Recreation Facilities Fund funding, Lotterywest and any other source of funding for a grant to construct the BMX track in Briggs Park Byford.

Councillor Kirkpatrick foreshadowed he would move a New Motion to include the reallocation of funding, accept the payment of \$50,000 and the starting gate from the Byford BMX Club, accept a representative from Dirtzantrails be invited to finalise the budget and ensure that construction does not commence until the Director of Engineering is satisfied all costings and criteria have been met, if the motion under debate is lost.

**OCM128/07/15 COUNCIL DECISION / Alternative Motion:**

Moved Cr Wilson, Seconded Cr Rossiter

That Council apply in the 2016 round of Community Sporting and Recreation Facilities Fund Forward Planning grant applications to construct the BMX Track in Briggs Park, Byford.

**LOST 2/7**

**COUNCIL DECISION**

Moved Cr Ellis, seconded Cr Piipponen

That Standing Orders 9.5, 9.6, 10.7 and 10.13 be suspended at 8.13pm in order to further discuss item OCM128/07/15.

**CARRIED 9/0**

Councillor Wilson foreshadowed he would move a New Motion to defer the item until September 2016 for further information to be sort and a business plan to be provided to Council, if the motion under debate it lost.

**COUNCIL DECISION**

Moved Cr Moore, seconded Cr Wilson

That standing Orders be reinstated at 8.36pm

**CARRIED 9/0**

**OCM128/07/15 COUNCIL DECISION / New Motion:**

Moved Cr Kirkpatrick, seconded Cr Moore

That Council

1. Investigate the reallocation of \$400,000 to construct a new BMX track at Briggs Park
2. Accept the payment of \$50,000 and the starting gate valued at \$21,000 as the total contribution from the Byford BMX Club
3. Accept that a representative from Dirtzantrails be invited to finalise the budget
4. Accept that no construction commences until the Director Engineering is satisfied all costings and criteria has been met.

**CARRIED 9/0**

## 10. Information Reports:

<b>OCM122/07/15</b>	<b>Chief Executive Officer Information Report (SJ1508)</b>
Author:	Kirsty Peddie – Executive Assistant
Senior Officer:	Richard Gorbunow - Chief Executive Officer
Date of Report:	9 July 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

### Introduction:

The purpose of this report and associated attachments is to provide information to Councillors relating to recent activity regarding operational matters that need to be reported to Council either through a statutory mechanism or as information. The following details are provided to Councillors for information only:

### Attachments:

- [OCM122.1/07/15](#) - Common Seal Register Report – June 2015 (E02/5614)
- [OCM122.2/07/15](#) – Outer Metro Growth Meeting Minutes 18 June 2015 (E15/3175)
- [OCM122.3/07/15](#) – Peel Zone Meeting Minutes 25 June 2015(E15/3176)

**Voting Requirements:** Simple Majority

### OCM122/07/15 COUNCIL DECISION / Officer Recommendation:

Moved Cr Wilson, seconded Cr Erren

That Council accept the Chief Executive Officer Information Report for June 2015.

**CARRIED 9/0**

<b>OCM123/07/15</b>	<b>Confirmation Of Payment Of Creditors (SJ514-06)</b>
Author:	Vicki Woods - Finance Officer
Senior Officer:	Alan Hart - Director Corporate and Community
Date of Report:	1 July 2015
Disclosure of Officers Interest	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the Local Government Act

### Introduction

The *Local Government (Financial Management) Regulations 1996* requires the local government to prepare a list of accounts paid by the Chief Executive Officer each month.

### Relevant Previous Decisions of Council

There is no previous Council decision relating to this issue.

### Community / Stakeholder Consultation

No community consultation was required.

### Comment

In accordance with the *Local Government (Financial Management) Regulations 1996* 13(1), Schedules of all payments made through the Council's bank accounts are presented to Council for their inspection. The list includes details for each account paid incorporating:

- a) Payees name;
- b) The amount of the payment;
- c) The date of the payment; and
- d) Sufficient information to identify the transaction.

Invoices supporting all payments are available for the inspection of Council. All invoices and vouchers presented to Council have been certified as to the receipt of goods and the rendition of services and as to prices, computations and costing and that the amounts shown were due for payment, is attached and relevant invoices are available for inspection.

It is recommended that Council receives the payments authorised under delegated authority and detailed in the list of invoices for period of 21 May 2015 to 30 June 2015, as per the attachment.

### Attachments

- [OCM123.1/07/15](#) - Creditors List of Account 21 May 2015 to 30 June 2015. (E15/3232)

### Alignment with our Strategic Community Plan:

The Strategic Community Plan has placed an emphasis on undertaking best practice financial and asset management and is in line with the category of Financial Sustainability.

#### Financial Sustainability

Objective 2.1	Responsible Management
Key Action 2.1.1	Undertake best practice financial and asset management.

### Statutory Environment

Section 5.42 and 5.45(2) of the *Local Government Act 1995* states that the Local government may delegate some of its powers to the Chief Executive Officer. Council have

granted the Chief Executive Officer Delegated Authority CG07 - Payments from Municipal and Trust Fund.

### **Financial Implications**

All payments that have been made are in accordance with the purchasing policy and within the approved budget, and where applicable budget amendments, that have been adopted by Council.

**Voting Requirements**                      Simple Majority

### **OCM123/07/15      COUNCIL DECISION / Officer Recommendation**

**Moved Cr Urban, seconded Cr Erren**

**That Council accepts the payments authorised under delegated authority and detailed in the list of invoices for period of 21 May 2015 to 30 June 2015, as per attachment OCM123.1/07/15 - Creditor List of Accounts 21 May 2015 to 30 June 2015 including Creditors that have been paid and in accordance with the *Local Government (Financial Management) Regulations 1996*.**

**CARRIED 9/0**

<b>OCM124/07/15</b>	<b>Corporate and Community Information Report (SJ514-05)</b>
Author:	Elba Strijdom – PA to Director Corporate and Community Services
Senior Officer/s:	Alan Hart – Director Corporate and Community Services
Date of Report:	30 June 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

### Introduction

The purpose of this report and associated attachments is to provide information to Councillors relating to recent activity regarding operational matters that need to be reported to Council either through a statutory mechanism or as information.

### Attachments

- [OCM124.1/07/15](#) - Delegated Authority Creditors Only for 21 May 2015 to 30 June 2015 (E15/3231)
- [OCM124.2/07/15](#) – Keysbrook Community Consultative Group Meeting held on 3 June 2015 and Radiation Fact Sheet (Final) (IN15/13738)
- [OCM124.3/07/15](#) - Minutes of the Neighbourhood Watch/eWatch Committee Meeting held on 25 June 2015 (OC15/12195)
- [OCM124.4/07/15](#) - Tourism and Small Business Report (IN15/13737)
- [OCM124.5/07/15](#) - Mundijong Community Association Inc Meeting Minutes of 18 June 2015 (IN15/13735)

### Voting Requirements

Simple Majority

### OCM124/07/15 COUNCIL DECISION / Officer Recommendation

Moved Cr Hawkins, seconded Cr Erren

That Council receives the Corporate and Community Services Information Report for June 2015.

**CARRIED 9/0**



<b>OCM125/07/15</b>	<b>Planning Information Report (SJ514-04)</b>
Author:	Mary-Ann Toner - Personal Assistant to the Director Planning
Senior Officer:	Deon van der Linde – Acting Director Planning
Date of Report:	6 July 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

### Introduction

The purpose of this report and associated attachments is to provide information to Councillors relating to recent activity regarding operational matters that need to be reported to Council either through a statutory mechanism or as information. The following details are provided to Councillors for information only.

### Attachments

- [OCM125.1/07/15](#) Planning, Building, Health, Rangers and Development Compliance – Delegated Authority Information Report (E15/3178)
- [OCM125.2/07/15](#) Scheme Amendment, Local Planning Policies and Local Structure Plans (E12/3985)

**Voting Requirements**      Simple Majority

**OCM125/07/15      COUNCIL DECISION / Officer Recommendation:**

**Moved Cr Hawkins, seconded Cr Erren**

**That Council accept the Planning Information Report for June 2015.**

**CARRIED 9/0**

<b>OCM126/07/15</b>	<b>Engineering Services Information Report (SJ514)</b>
Author:	Jill Jennings – Personal Assistant to Director Engineering
Senior Officer:	Gordon Allan – Director Engineering
Date of Report:	10 July 2015
Disclosure of Officers Interest:	No officer involved in the preparation of this report is required to declare an interest in accordance with the provisions of the <i>Local Government Act</i>

**Introduction:**

The purpose of this report and associated attachments is to provide information to Councillors relating to recent activity regarding operational matters that need to be reported to Council either through a statutory mechanism or as information. The following details are provided to Councillors for information only.

**Attachments:**

- [OCM126.1/07/15](#) – Engineering Delegation of Authority Report, June 2015 (E15/3197)
- [OCM126.2/07/15](#) – Rivers Regional Council - OCM Minutes, 18 June 2015 (IN15/12991)
- [OCM126.3/07/15](#) – Bushfire Advisory Committee - Minutes, 21 May 2015 (E15/2472)
- [OCM126.4/07/15](#) – Local Emergency Management Committee - Minutes, 23 June 2015 (E15/2483)
- [OCM126.5/07/15](#) – SJ Cemeteries Management Committee Meeting – Minutes, 18 March 2015 (OC15/12744)
- [OCM126.6/07/15](#) – Peel Trails Group – Minutes, 12 May 2015 (IN15/13545)

**Voting Requirements:** Simple Majority

**OCM126/07/15 COUNCIL DECISION / Officer Recommendation:**

**Moved Cr Rossiter, seconded Cr Erren**

**That Council accept the Engineering Services Information Report for July 2015.**

**CARRIED 9/0**

**11. Urgent Business:**

Nil

**12. Councillor questions of which notice has been given:**

Nil

**13. Closure:**

There being no further business the Presiding Member declared the meeting closed at 8.46pm.

I certify that these minutes were confirmed at the  
Ordinary Council Meeting held on 10 August 2015

.....  
Presiding Member

.....  
Date